REPORT
OF THE
PRINCE EDWARD ISLAND
ADVISORY COMMITTEE
ON
IMPAIRED DRIVING

Volume 1

December, 1988

February 17, 1989

The Hon. Wayne D. Cheverie, Q.C.
Minister of Justice and Attorney General
Province of Prince Edward Island
5th Floor, Shaw Building
Charlottetown, PEI

Dear Sir:

RE: Report of the Prince Edward Island
Advisory Committee on Impaired Driving

On behalf of the Prince Edward Island Advisory Committee on Impaired Driving, I am pleased to submit the committee's report. The report, in two volumes with two supporting documents, is the result of eighteen months work by the committee in examining the complex issue of impaired driving in Prince Edward Island.

The committee was impressed by the increasing concern in the province about impaired driving. This concern was expressed to the committee in various ways. The committee hopes that this concern can be further advanced with the implementation of the recommendations in this report. Future efforts will require a commitment and leadership on the part of government agencies in cooperation with many community groups concerned about impaired driving and its consequences.

I would like to commend committee members for their interest, participation in, and contribution to this work. This was often with disruption to their regular responsibilities and at some personal inconvenience.

.../2

I view the work and activity of this committee as a significant contribution to the efforts in this province to deal effectively with impaired driving. Hopefully our efforts have gone a long way to satisfying the terms of reference provided to the committee.

On behalf of committee members, thank you for the opportunity to participate in this important matter.

Yours very truly,

Phil Arbing,
Chairman
PEI Advisory Committee on
Impaired Driving

Members

Sgt. Miles Foster
Mr. Ken Hicks
Dr. L.H. Killorn
Ms. Jill (Lightwood) Wright
Ms. Heather MacPherson
Mr. Foch McNally

/ems

Enclosures

TABLE OF CONTENTS

Page No.

ACKNOWLEDGEMENTS....(iv)

EXECUTIVE SUMMARY....(vii)

RECOMMENDATIONS....(xvi)

I. THE PROCESS

1.0 Advisory Committee on Impaired Driving....1
  1.1 Terms of Reference....1

2.0 The Safe Driving Project....2

3.0 The Process Considered....3
  3.1 Tasks Completed in Chronological Order....4

4.0 Additional Ongoing Activities....7
  4.1 The Federal Initiative....7

II. THE MAGNITUDE OF THE PROBLEM

1.0 The Issues....12

2.0 The Extent of the Problem....12
  2.1 Who Drinks?....15
  2.2 Who Drives?....19
  2.3 Who Drives Impaired?....19

3.0 General Characteristics of the Impaired Driver....22
  3.1 Alcoholism....22
  3.2 Blood Alcohol Concentration Levels....23
  3.3 Age....23
  3.4 Gender....24
  3.5 Origin of Trip....25
  3.6 Repeat Offenders....25
  3.7 Time of Day of Incident....26
  3.8 The Impaired Driver: An Island Profile....26

4.0 A Summation: The Target Groups....27

III. THE RESPONSE: LEGISLATION

1.0 Impaired Driving Legislation: An Historical Overview....31

2.0 The Canadian Context....33
  2.1 A Public Concern: Legislative Change....34
  2.2 Bill C-19 Legislative Objectives....35
  2.3 Current Federal Criminal Code Impaired Driving Provisions....35

TABLE OF CONTENTS

Page No.

III. 3.0 The Provincial Context: Prince Edward Island 44
  3.1 The Highway Traffic Act of P.E.I. 44
  3.2 The Liquor Control Act of P.E.I. 53

IV. THE RESPONSE: INTERVENTION STRATEGIES

1.0 Introduction 59

2.0 Prevention and Intervention Strategies 60

3.0 Enforcement and Public Awareness Programs 61
  3.1 The Deterrent Effect 61
  3.2 The Swedish Experience: Random Breathtesting 63
  3.3 The Effectiveness of Public Awareness 66

4.0 Treatment and Educational Programs 68
  4.1 The Role of Corrections in the Treatment Process 71
  4.2 The Effectiveness of Treatment/Education 74

5.0 Considerations Related to General Alcohol Use 77
  5.1 Alcohol Advertising 77
  5.2 Alcohol Retailing: Server Intervention on P.E.I. 80

V. VICTIMS OF IMPAIRED DRIVING

1.0 Victims 88

VI. RESEARCH AND EVALUATION 93

VII. THE NEED FOR A MULTIDIMENSIONAL APPROACH

1.0 The Challenge 97

2.0 A Move Towards Implementation 97

3.0 A Countermeasures Program Committee: Suggested Terms of Reference 99

4.0 A Continual Need for Sharing Information 100

APPENDICES:

1. Provincial Advisory Committee on Impaired Driving
2. Individuals and Agencies Contacted for the P.E.I. Services Inventory
3. Participants in Presentation of Briefs to Advisory Committee on Impaired Driving
4. Selected Canadian Legislation Related to Impaired Driving
5. List of Alcohol Countermeasures

BIBLIOGRAPHY

NOTE: Volume II of this report, "REPORT OF THE PRINCE EDWARD ISLAND ADVISORY COMMITTEE ON IMPAIRED DRIVING - A Research Study of Impaired Driving Charges in Prince Edward Island During the Five Year Period 1983 - 1987," is a separate document.

LIST OF FIGURES

Page No.

Figure 1.
Societal Costs of Impaired Driving 12

Figure 2.
Summary Figures of P.E.I. Highway Traffic Fatalities, Injuries, Collisions and Alcohol Related Fatal Collisions; 1981-1987 13

Figure 3.
Provincial Comparison of Fatality Rates per 100 Million Vehicle Kilometres Travelled - 1980-1986 13

Figure 4.
Distribution of Blood Alcohol Concentration Among Fatally Injured Drivers According to Vehicle Types, by Year of Death (P.E.I.) 14

Figure 5.
Sales of Alcohol Beverages: Litres per Capita (Aged 15 Years and Older) Canada, 1980-81 to 1984-85 16

Figure 6.
Gallonage of Alcoholic Beverages by Type Sold in P.E.I. (1984-1987) 17

Figure 7.
Alcohol Consumption (Regular Drinkers as a Percentage of Population Aged 15 and Over by Age, Sex and Region, 1985) 18

Figure 8.
Criminal Code Penalties for Impaired Driving Offences 43

Figure 9.
Percentage of Alcoholic Beverages Sold by Licensees as Compared to Total Sales 80

ACKNOWLEDGEMENTS

During the eighteen (18) months work carried out by the Prince Edward Island Advisory Committee on Impaired Driving, the interest shown, support given, and participation in the Committee by a great many individuals and organizations has made a significant contribution to this effort.

This includes members of the public from across the province who attended public meetings and discussions, wrote letters, submitted briefs, and/or met with the Committee. As well, the Committee sought the views of a number of government agencies, private and community groups in the province. The assistance and advice received was very helpful.

The Committee was particularly impressed by the participation of students and young people and the organizations they represented. As well, the views and contribution by victims added a special focus. The Committee very much appreciated these somewhat special efforts.

In carrying out the research on impaired driving incidents, the assistance and support of the administration and staff of all Municipal Police Departments as well as Headquarters and Detachments of RCMP "L" Division across the province was excellent. For this, the Committee is grateful. The Computer Services Division of the P.E.I. Department of Finance contributed in a significant way to the data compilation and analysis involved in the research.

The Committee was greatly assisted by a number of sources contacted and the resource material, documentation and guidance received from a variety of agencies across the country particularly Departments of Justice, Motor Vehicle and Highway Safety Branches, Addictions Agencies, among others.

At least three individuals deserve a special note of appreciation: Mrs. Edna Smith who, with much attention to detail, arranged and typed this report and many preceding discussion papers, drafts and other related work. Ms. Helen Durie who led the research effort in examining the issue of impaired driving based on incidents coming to the attention of the police. This has resulted in an excellent research report and data base that can serve various interests in the province well into the future.

Mr. Craig McDowall who served as coordinator of the Safe Driving Project in support of the Committee's work and who was responsible for information gathering including an extensive literature review, coordinating Committee efforts, developing draft documents and many other related activities.

The Committee is grateful to the Department of Justice and Attorney General for being able to reach an agreement with the Federal Department of Justice for a sizeable financial contribution from that Department's Impaired Driving Initiative to support the Safe Driving Project thus, in turn, the work of this Committee. More recently, the advice/assistance of the Federal Department of Health & Welfare Canada through its Community Action Program on Impaired Driving has been a valuable resource.

The efforts and cooperation of the media in Prince Edward Island have been a significant help to the Committee and hopefully to the public in general in continuing to keep the issue of impaired driving before the public.

As chairman of the Committee, a very special thank you is directed to the other six members of the Advisory Committee for their interest, dedication, commitment and contribution.

Finally, the opportunity extended by the province through the Minister of Justice and Attorney General to participate in this important undertaking was not only an opportunity but also a challenge for which the Committee is grateful.

Thank you.

EXECUTIVE SUMMARY

On April 14, 1987, the Honourable Wayne D. Cheverie, Q.C., Minister of Justice and Attorney General announced that the Department of Justice, in conjunction with other government and community organizations, would be leading a thorough examination of the issues directly related to and the consequences of drinking and driving behaviour in the Province of Prince Edward Island. The ensuing examination would be in the context of legislation, prevention, enforcement and intervention measures and programs.

A seven member Advisory Committee consisting of representatives of agencies directly involved in drinking and driving issues within the Province was formed to carry out this examination and to coordinate related activities in the context of a Safe Driving Project which started in July, 1987.

The Provincial Department of Justice was able to obtain financial assistance from the Federal Department of Justice, Ottawa, through its Impaired Driving Initiative, to coordinate the workings of the Committee and to provide coordinating staff and research support.

Impaired driving in Canada has long been considered problematic. With the Criminal Code amendments, as presented through Bill C-19, coming into effect in December, 1985, the issue of impaired driving became the focus of increased attention on the part of Federal, Provincial and Territorial Governments.

The Provincial Advisory Committee considered it imperative that the public be able to contribute to the information gathering process. Information on the issue of impaired driving was obtained through the preparation of a Prince Edward Island Services Inventory, a series of public consultations, a call for a presentation of briefs to the Advisory Committee, the creation of an audio visual resource inventory, a literature review of information and data on impaired driving and the establishment of an in-depth study of all impaired driving charges that were laid within the Province from 1983 to 1987. It was felt that the research project was necessary to provide the Committee with a profile of who the drinking driver is on Prince Edward Island. The findings of the research project are included in volume two of the report.

THE MAGNITUDE OF THE PROBLEM

It has been argued that impaired driving causes more harm to and extracts more costs from society than does any other single behaviour. Costs to the Canadian taxpayer through the deaths and injuries of its citizens and property damage resulting from alcohol related traffic accidents are conservatively estimated to run approximately 1.1 billion dollars annually.

Between 80 to 90% of all traffic crashes result from human error and conditions. The most common human condition is impairment due to alcohol and/or other drugs. The Traffic Injury Research Foundation estimates that between 45% to 51% of all drivers killed on Canadian roads were impaired at the time of their deaths. These national figures and trends are also reflected on Prince Edward Island.

The issue of impaired driving cannot be addressed without first looking at the sources and levels of alcohol consumption within the general population. There is an obvious interrelationship between levels of consumption, the social acceptability of alcohol use and the general use of a motorized vehicle.

It is extremely difficult to answer the question, "Who drinks and drives?" A large proportion of the data collected is from known sources, that is, information gained from police charge sheets and from the actual offenders themselves. It can only be estimated how many people engage in drinking and driving behaviour and go undetected. A 1986 Manitoba Night-time Survey estimated that one out of every five drivers on the road at night as having at least a moderate amount of alcohol in their system and that one out of every twenty drivers operating a motor vehicle at night is legally impaired.

The general characteristics of the impaired driver can be examined in various categories. These include: alcoholism, blood alcohol concentration levels, age, gender, origin of trip, repeat offenders, and time of day of incident. A basic profile of the impaired driver on Prince Edward Island was created from the data obtained in the research study of impaired driving charges from 1983 to 1987. It was found that the impaired driver is likely to be a male under 30, without a previous conviction for impaired driving. He will most likely come to the attention of the RCMP on road patrol because of abnormal driving behaviour. The incident will most likely occur during late night hours, on a rural highway during clear weather months. He will have a blood alcohol concentration of just over 150 milligrams, and be charged with driving with over 80 milligrams of alcohol, and convicted in Court. As of 1987, his sentence will be a fine of at least $800 dollars and a jail term of at least three days in jail.

LEGISLATION

Historically, the establishment of Canadian impaired driving legislation began in 1921 and was followed by four distinct developmental, progressive stages of criminal law which served to outline specific areas of impaired driving behaviour.

The implementation of the Criminal Code amendments through Bill C-19 in December, 1985, has served as a focal point for present discussion on the issue of impaired driving. These Criminal Code amendments were the result of effective pressure placed on governments from concerned interest groups. The intent of these most recent legal amendments was to reinforce the fact that impaired driving is a serious criminal matter that can result in severe penalties.

The scope of the present legislation was expanded. It addressed the problem of location by indicating that drinking and driving offences can occur anywhere, it redefines the term motor vehicle to include all types of motorized transportation, and it redefines the term "care or control" by stating that an individual can be convicted of an impaired driving offence not only when driving but also if he or she is judged to have care or control of a motor vehicle.

Crucial to the legislative concerns about impaired driving, is an understanding as well of existing provincial rules and regulations.

Impaired driving behaviour is an intricate combination of motor vehicle use and alcohol consumption. Both are provincial responsibilities, therefore an understanding of existing provincial rules and regulations is essential. In this regard the Advisory Committee addressed several issues involving the Highway Traffic and Liquor Control Acts of Prince Edward Island.

In addition to the criminal sanctions imposed by the courts after an impaired driving offence, the individual is subject to decisions pursuant to provisions of the Highway Traffic Act. In this light, the Advisory Committee examined the licensing process and various programs offered through the Highway Safety Division. This included a review of programs for new drivers. The concept of a twenty-four hour roadside suspension program involving drivers who have been drinking but not legally impaired was examined. Of direct relevance to such program initiatives is the issue of funding. The Committee examined the idea of the user fee concept in this regard.

National figures indicate that the youngest drivers (age 16 to 19) account for 23% of all fatalities and 18% of all injuries yet only comprise 15% of the total number of drivers on the road. Similarly, PEI 1985 traffic figures relay that this age group was involved in 20% of injury related motor vehicle accidents while comprising only 7.6% of all licensed drivers in the Province.

These figures suggest that a young driver's inexperience is significantly heightened when alcohol is introduced. It was with this perspective and background that the Liquor Control Act of PEI was analyzed by the Advisory Committee. The relative ease with which a young person can gain access to alcohol raises serious concerns about the effectiveness of the present Liquor Control Act.

INTERVENTION STRATEGIES

Prevention is a component part of all countermeasure and intervention efforts against impaired driving. Prevention directs itself towards a future orientation by implying an acquisition of knowledge that can be internalized and therefore utilized in the personal decision making process of everyday life. All intervention strategies should be viewed as component parts of an ongoing effort to change personal and social attitudes against impaired driving and are therefore preventive in nature.

Police enforcement as an intervention strategy has met with success in the past. Its continued success, however, depends upon how much the public is actually aware of what enforcement techniques are employed on a regular basis. As well, there is evidence to suggest that public awareness campaigns in the absence of concentrated enforcement policies have little, if any, effect on the reduction of alcohol related accidents. Therefore, there is a reciprocal relationship between successful enforcement campaigns and public awareness - one should not exist without the other. The Advisory Committee is of the opinion that continued police enforcement is absolutely necessary and that this enforcement must be complimented by the development of an effective public awareness campaign to inform the public of the personal, social and legal consequences that can result from participating in drinking and driving behaviour.

In that twenty-five to thirty percent of convicted impaired drivers are alcohol dependent, treatment services are essential because a driving while impaired conviction can serve as a "fishnet" mechanism thereby directing an individual to enter treatment. Local Prince Edward Island experiences indicate percentages of incidence of alcoholism increase with previous convictions. It is therefore without question that treatment programs be maintained as an integral part of the total intervention process. It is further suggested that alcohol and drug treatment programs play a major role in the elimination of repeat offenders involved in impaired driving.

Education prevention programs directing themselves particularly to the youth of the province may hold the ultimate key to success of any intervention strategy. To reduce drinking and driving is to change social attitudes, norms and values. Social change is never accepted with complacency. Change, however, is made easier if the youth of our community believe it is necessary. Therefore, educational programs outlining the dangers of alcohol use and ultimately alcohol use and driving must be presented to and involve our youth at the earliest opportunity. The educational system offers a ready-made medium for the presentation of this message.

It can be argued that the environment and physical layout of drinking establishments where alcoholic beverages are sold influence the consumption of alcohol. Therefore, proprietors and employees within these establishments play a key role in the amounts of alcohol their patrons consume and ultimately whether they use motor vehicles after leaving the premises.

Recent Canadian civil case law has indicated that servers and, in some cases, employers can be successfully sued for damages when found negligent, that is, when they knew or should have known a patron was dangerously intoxicated. The Advisory Committee had the issue of server intervention and training brought before it on many occasions. Opinion was strong that a substantial increase in the awareness of both proprietors and employees of drinking establishments and of the public in general of the liability of the former for damage caused to or by impaired persons should occur. It is the opinion of the Advisory Committee that a server intervention program must be part of a provincial countermeasures program which is being advocated by the Committee.

Issues related to the "Happy Hour" concept and the "Designated Driver Program" were also addressed by the Advisory Committee. The continued use of the "Happy Hour," viewed as the promotion of high volume alcohol use over a short period of time, is seen as counter-productive to any overall provincial program promoting the dangers of impaired driving. Steps should be taken to eliminate this practice. The Designated Driver Program, though sometimes viewed as the promotion of alcohol use by some, is seen by the Advisory Committee as a potentially successful short-term solution to the general overuse of alcohol by patrons of licensed establishments who drive their vehicles upon leaving these premises. The promotion of a consistent province-wide Designated Driver Program is viewed as a positive measure.

VICTIMS

The Advisory Committee heard on several occasions from victims and victims' groups on the issues of impaired driving. Much was said regarding the present inadequacies of the criminal justice system and its treatment of victims, particularly the victims of impaired drivers.

Amendments in 1988 to the Criminal Code through Bill C-89, the Victims of Crime legislation, provides for some improvement in the areas of victimization. Of particular concern is financial compensation particularly in the area of long-term care for individuals who have been injured in impaired driving accidents. Under present Federal/Provincial cost-sharing agreements, victims of impaired driving are not compensable. The Advisory Committee views this position as limited in scope in failing to recognize the total potential emotional and financial costs incurred if an individual and/or an individual's family are victimized by the crime of impaired driving.

The present "Unsatisfied Judgement" process as operated by Judgement Recovery (PEI) Limited tends to be a slow process and at times falls short in covering the financial cost of caring for a chronic care patient injured through an impaired driving incident.

It is understood that the Province has been approached by the Insurance Bureau of Canada to have the provisions of the Highway Traffic Act dealing with the judgement recovery process amended. This will in turn allow for the "uninsured motorist" provision of the Standard Auto Policy to be implemented on PEI. The Committee views the uninsured motorist provision as being a partial solution to one of the many problems faced by victims in our society.

At the provincial level, the Victims of Crime Act is presently awaiting proclamation. This Act provides for a Victims Assistance Fund to be supplied by monies garnered from surcharges imposed on persons convicted of any Provincial Statute and Federal criminal legislation. In addition, the Act provides for the establishment of a victims services advisory committee to oversee services to victims in the Province of Prince Edward Island.

"Any individual can be a potential victim of an impaired driver" was the main message delivered by victims of impaired driving to the Advisory Committee. The Committee is of the opinion that this message should be utilized in any proposed preventive educational package within the province.

In summation, any future endeavors undertaken by the province in the areas of impaired driving countermeasures should include victim participation. Program development and evaluation which will be included in any long-term strategy against impaired driving will benefit greatly from victim representation and input.

RESEARCH AND EVALUATION

The need for a continued emphasis to be placed on evaluative research as part of a long-term strategy against impaired driving is absolutely necessary. Up-to-date information is essential if decision makers are to arrive at realistic conclusions regarding enforcement practices and the impact of existing and potential programs.

Impaired Driving on Prince Edward Island, the five-year study of impaired driving charges from 1983 to 1987 has created a data base that must be expanded to allow for updated information in the area of impaired driving behaviour on Prince Edward Island.

The collection of information must also come from sources other than police files and other known sources. Priority must be given to the utilization of potential resource areas that will answer the elusive question, "Why do people drink and drive?" The Province should therefore make itself available for any research opportunities in the area of highway safety and ultimately impaired driving. Additionally, participation in the night-time survey held in conjunction with Transport Canada in other parts of Canada should be encouraged.

THE NEED FOR A MULTIDIMENSIONAL APPROACH

The time and effort spent on exploring the intricacies of the drinking and driving issue have led the Committee to a conclusion that perhaps was known before the process began. Simply, the drinking and driving dilemma is multidimensional and extremely complex. Therefore, any attempt at solving the dilemma must also be multidimensional and fully integrated in its approach.

The completion of this report on impaired driving, in essence, is just the beginning. The activities surrounding the development of this report, the preparation of a services inventory, public consultations and the five-year study of impaired driving charges have served to highlight activities that are happening within the Province and have also pointed to areas that need adjustment or change. Thus, a Provincial Countermeasures Program is recommended.

The efforts of the Advisory Committee on Impaired Driving have served to keep the issue of impaired driving in the forefront of public awareness. The challenge now remains for future strategies to keep it there. The organized strategies to curtail impaired driving within the province of Prince Edward Island require complete commitment. The establishment of a Provincial Countermeasures Program will serve to highlight the seriousness of impaired driving while at the same time solidify the province's commitment towards the elimination of this problem. It is the hope of the Advisory Committee on Impaired Driving that its efforts are not wasted and that its recommendations be considered and implemented as soon as possible.

RECOMMENDATIONS

The Prince Edward Island Advisory Committee on Impaired Driving recommends that:

1. **The provincial government of Prince Edward Island make its views known to the federal government supporting the reduction of the legal blood alcohol level from .08% mg to .05% mg through subsequent Criminal Code amendments. (Page 38)**

2. **Section 242(4) of the Criminal Code be applied consistently by all enforcement agencies within the province of P.E.I. when dealing with those individuals driving while disqualified. (Page 46)**

3. **An examination of the review time period as outlined in Section 247 of the Highway Traffic Act take place with the intention of eliminating the two year time limit for impaired driving convictions. (Page 47)**

4. **The Department of Justice and Attorney General, Highway Safety Division and law enforcement agencies review and examine experiences elsewhere on the 24 hour roadside suspension program with a view to adapting the concept for its implementation in the province of P.E.I. (Page 49)**

5. **Government examine and review the cost structure of the licensing and licensing reinstatement process within the Highway Safety Division with a view of establishing a more comprehensive "user fee" system, particularly in regard to programs designed for impaired drivers. (Page 53)**

6. **Government examine the fine structure under the Liquor Control Act of P.E.I. with a view to substantially increasing fines particularly in areas pertaining to the illegal use and possession of alcohol. (Page 56)**

7. **Enforcement agencies continue to utilize the "stop-check" program on a regular basis within the province as a prevention, public awareness (including media attention) and detection technique, and to coordinate with other enforcement agencies in a province-wide program whenever possible. (Page 65)**

8. **The Minister of Justice and Attorney General approach his federal counterpart with the purpose of reviewing and strengthening the present legislative and enforcement procedures provided for in the Criminal Code as they relate to the detection and prosecution of the impaired driver. (Page 65)**

9. A public awareness program against impaired driving be a central part of any countermeasures program developed in the province which should include the following:

   a) An information package developed by the Highway Safety Division to be distributed to motorists at license and motor vehicle registration renewal times.

   b) A public address announcement which can be played at each ferry terminal prior to boarding or during the crossing warning motorists of dangers of impaired driving.

   c) The distribution of "point of sale" material (shopping bags, etc.) after each purchase at liquor control outlets across the province.

   d) Enforcement agencies utilize a media campaign in conjunction with the "Stop-Check" program.

   e) The Department of Justice and Attorney General of P.E.I. be responsible for developing an annual "media workshop on impaired driving" for individuals, organizations and media representatives involved in the dissemination of public information. (Page 68)

10. The provincial government create a permanent full-time position to serve as a liaison between the Highway Safety Division and Addiction Services on P.E.I. to coordinate the mandatory referrals resulting from the motor vehicle re-licensing process and to serve a liaison function with Justice agencies. (Page 71)

11. A liaison function should be established and/or supported by government to coordinate community-based youth programs and activities (e.g. S.A.D.D./Safe-Grad) across the province. (Page 77)

12. An "alcohol-drug" component become part of the proposed family life curriculum within the educational system. (Page 77)

13. The government of Prince Edward Island, through the Liquor Control Commission, take a lead role in the sponsorship and coordination of educational programs pertaining to the responsible use of alcohol. (Page 79)

14. The P.E.I. Liquor Control Act be amended to include the requirement of server intervention training by all individuals prior to the receipt of a "waiter's license," and that those serving alcohol have a server training program as a minimum requirement for employment in any licensed establishment with this being a condition of the issuance of the standard liquor license. (Page 83)

15. The provincial government support the tourism and the food and restaurant industry in the development of a comprehensive, standard provincial server intervention program. (Page 83)

16. The enforcement agencies in P.E.I. share with the Liquor Control Commission information that comes to their attention arising from complaints or incidents in or around licensed premises involving the serving of alcohol. (Page 83)

17. The P.E.I. Liquor Control Commission review the existing legislation related to "discount sales and pricing" with a view to eliminating "Happy Hours" in licensed establishments in Prince Edward Island. (Page 84)

18. A province-wide "designated driver" program be implemented as part of a provincial countermeasures strategy against impaired driving. (Page 85)

19. The provincial government continue to impress at the federal level, the limitations of the present cost-sharing agreement on criminal injuries compensation as it relates to victims of impaired driving. (Page 88)

20. The provincial government move as expediently as possible in amending the Highway Traffic Act as it relates to "unsatisfied judgement" to provide for the application of "uninsured motorist" coverage in the province. (Page 89)

21. The concept of victimization be included in all information regarding impaired driving and to involve and utilize, where appropriate, the experience of victims in programs where drinking and driving is an issue. (Page 90)

22. The provincial government, through the Department of Justice and Attorney General, take the responsibility for the coordination of a centralized, continuous data collection process regarding all aspects of impaired driving behaviour. Specifically, the following must occur:

a) The present data base on impaired driving statistics be continued and expanded.

b) A province-wide integrated justice information system be expanded to include a crime reporting system so that impaired driving statistics can be made immediately available to those involved in any countermeasures strategy.

c) The organization of a night-time driver survey begin as soon as possible. (Page 94)

23. An Advisory Committee be established by the Minister of Justice and Attorney General to coordinate and monitor existing efforts and to review and implement the recommendations of this report with the purpose of establishing a province-wide countermeasures program. (Page 99)

24. a) The Prince Edward Island Advisory Committee on Impaired Driving Final Report be released as a public document as soon as possible.

b) A provincial symposium on impaired driving be organized as soon as possible to discuss the issues of impaired driving and the ensuing possibilities of establishing a provincial countermeasures program in 1989. (Page 101)

I

THE PROCESS

The Hon. Wayne D. Cheverie, Q.C., Minister of Justice and Attorney General, announced on April 14, 1987 that the Department of Justice of PEI, in conjunction with other government and community organizations, would be leading a thorough examination of the issues directly related to, and the consequences of drinking and driving behavior in the Province of Prince Edward Island. This examination would be in the context of legislation, prevention, enforcement and intervention measures and problems.

1.0 ADVISORY COMMITTEE ON IMPAIRED DRIVING

At the direction of the Minister of Justice and Attorney General, a seven member Advisory Committee was formed of representatives of agencies directly involved in drinking and driving issues within the Province (Appendix 1) to carry out the terms of reference of this endeavour. The committee began meeting on June 19, 1987 and met at least on a monthly basis. The Committee was provided secretarial and related support services through the Department of Justice and Attorney General.

1.1 TERMS OF REFERENCE

1. **To co-ordinate, where possible, the efforts of existing agencies and organizations in dealing with/responding to the problem of drinking and driving in Prince Edward Island.**

2. **To consult with and, where appropriate, involve community and other groups (e.g. MADD, SADD, etc.) through workshops, written briefs, public meetings and/or other activities.**

3. **To monitor and evaluate the effects of recent amendments to the Provincial Highway Traffic Act (e.g. assessment/treatment through Addiction Services), Criminal Code of Canada (e.g. increased penalties for drinking and driving), etc.**

4. **To examine existing programs in the province related to drinking and driving and compile an inventory of such programs including goals, objectives, resource requirements and implications including assessment.**

5. **To research and develop a demographic profile and statistical analysis of the drinking driver in Prince Edward Island, bringing attention to significant trends/variables where possible over the past five to seven years.**

6. **To oversee and encourage the development of public education events and resources for use by interested groups (e.g. workshops, video, etc.).**

7. **To advise government through the Minister of Justice and Attorney General with appropriate recommendations from time to time.**

8. **To provide the province, through the Minister of Justice and Attorney General, with an interim report and a final report.**

9. **To review and approve, as appropriate, proposals from this province for consideration by federal drinking and driving initiatives.**

10. **To develop a strategic plan including recommendations for continuing a coordinated approach in the future to deal with drinking and driving in the province.**

2.0 THE SAFE DRIVING PROJECT

To coordinate the workings of the committee and to provide staff and resource support, $65,400 was received from the federal Department of Justice through its Impaired Driving Fund. The Safe Driving Project employed a coordinator, a researcher and two research assistants at varying times from its inception in July, 1987.

The staff of the Safe Driving Project worked in conjunction with the Justice Resource Service and in particular, the Community Crime Prevention Program funded through the Solicitor General, Canada, with its mandate being youth, impaired driving, and family violence.

3.0 THE PROCESS CONSIDERED

Alcohol involvement in fatal traffic accidents within the province of Prince Edward Island over a five-year period prior to 1986 presented itself in dramatic percentages. In 1981, 67 percent or 12 of 18 fatal accidents involved alcohol. This figure "dropped" to fifty-five percent or 16 of 29 fatal accidents in 1983 but increased to 65 percent in 1985, where the overall number of fatal accidents increased to 34. 1986 saw the Island register 20 fatal accidents of which 12 (60 percent) were alcohol related.

To address the issue of impaired driving in the province and in conjunction with the efforts of the Federal Department of Justice to determine the effectiveness of recent Criminal Code amendments regarding impaired driving a meeting called by the provincial Department of Justice was held on September 8, 1986.

The meeting included representatives from the provincial justice system, law enforcement agencies, addiction services, health and social services, highway safety and private interest groups such as Mothers Against Drunk Drivers, Students Against Driving Drunk and the P.E.I. Safety Council.

The general consensus from this initial meeting was the lack of information that was readily available on the impaired driving situation on P.E.I. As a result several questions were raised: What is the nature and extent of the problem of impaired driving on P.E.I.? Who is the impaired driver? And, what is being done to alleviate the problem?

This meeting therefore served as the catalyst for the establishment of the provincial advisory committee, the Safe Driving Project and the terms of reference outlined in section 1.1.

Drinking and driving, a most difficult subject area open to many views and perceptions, forced the committee to maintain a narrow focus and deal with "impaired" driving as the issue at hand.

It was felt that though drinking and driving is problematic, it is nevertheless legal to a certain point. Impairment via alcohol and/or drugs, on the other hand, is an illegal practice as outlined in the Criminal Code and therefore must be the issue addressed at this time.

To this end the Advisory Committee and the coordinator of the Safe Driving Project set out the following tasks in an attempt to address the issue of impaired driving on PEI. The information obtained by the completion of these tasks as well as an overall basic literature review on the topic formed the basis of the final report and ultimately the series of recommendations arrived at by the committee.

3.1 Tasks Completed in Chronological Order

3.1.1 August, 1987 - November, 1987: **PEI Services Inventory**

A compilation of information on professional agencies and individuals directly involved or affected by the issue of impaired driving was carried out by the Safe Driving Project Coordinator. The inventory included thirty-nine (39) contacts within the province outlining the basic mandate of the agency/individual, highlighting some problem areas and potential future strategies. The list of contact persons and the corresponding agencies appears in Appendix 2.

The inventory was utilized by the Advisory Committee in the preparation of the final report to the Minister of Justice and Attorney General. It will be made available for public use following submission of the final report.

3.1.2 October, 1987 - August 31, 1988: **Research Design/Data Collection**

This study attempts to determine trends and characteristics of the impaired driver on PEI with a particular emphasis placed on localizing the incidents of this behaviour to specific parts of the province. Additionally, the study is a valid attempt to address the main question raised at the September 8, 1986 meeting: What is the nature and extent of impaired driving in P.E.I.?

The study is an investigation of all impaired driving charges laid by enforcement agencies on PEI from 1983 to 1987 inclusively. Approximately 5,300 files were examined, and tabulations were completed through the Computer Services Division. In addition to the Coordinator of the Safe Driving Project, this area of the project employed a research coordinator and two field workers.

The resulting research report is included in its entirety as a separate volume of the final report. Facts and figures drawn from the research pertaining directly to the Province of Prince Edward Island have been used in this final report where appropriate.

3.1.3 November, 1987 - December, 1987: **Public Consultations**

The purpose of the public consultations was to consult with and involve the general community in the issues of impaired driving.

Six (6) public consultations were held across Prince Edward Island between November 23, 1987 and December 9, 1987 inclusively.

A range of topics were raised in the discussions during the consultations covering such areas as victim support, general emphasis on alcohol abuse, rehabilitative programs for offenders, increased public awareness, consistency in sentencing and server training, to list a few.

The participation from the public was consistent with the average attendance numbering twenty individuals per meeting. Each meeting was promoted through and covered by the media thus allowing the issue of impaired driving to be brought to the public's attention.

Notes from the consultations and presentations are available through the Justice Resource Service, Department of Justice, Charlottetown.

3.1.4 February, 1988: **Presentation of Briefs**

In an attempt to obtain additional information from individuals and organizations and to discuss any recommendations they may have regarding impaired driving the Advisory Committee made itself available to hear formal presentations. The individuals and organizations who participated in this exercise are listed in Appendix 3.

In addition to personal invitations the committee appealed publicly through the media allowing for interested parties to contribute to the process. In this regard the committee received private correspondence from several citizens for its consideration.

In an attempt to clarify some of the technical procedural issues surrounding impaired driving enforcement and prosecution the committee met with police representatives and the Director of Prosecutions.

3.1.5 February, 1988: **Audio-Visual Resource Inventory**

An inventory has been compiled containing the titles and descriptions of videos and films that are available for public use on PEI. Contact sources where these resource materials can be obtained are also listed.

This inventory was created with the purpose that it be made available both for those directly and indirectly involved with and concerned about the impaired driver. It can be obtained through the Justice Resource Service, Department of Justice, Charlottetown.

3.1.6 **Literature Review of Information/Data**

The compiling of information and data regarding impaired driving over the past eighteen months has enabled the Safe Driving Project to accumulate a substantial amount of literature. Upon completion of the project the literature will be left with the Justice Resource

Service and will be available for public reference and use upon request. The selected bibliography included in this report may be useful in this regard.

4.0 ADDITIONAL ONGOING ACTIVITIES

The Coordinator of the Safe Driving Project was involved in a consultative role with the planning committee for the workshop for the Students Against Driving Drunk (S.A.D.D.) held in Charlottetown on November 20/87.

Mothers Against Drunk Drivers (M.A.D.D.) also requested consultative assistance for the development of a Grief Support Group Workshop that took place on November 21/87. The support group is still active in the Charlottetown area.

The Safe Driving Project provided partial funding for both of the above activities.

The Chairman of the Advisory Committee and the Coordinator of the Safe Driving Project both have attended meetings of the National Steering Committee on Impaired Driving which is part of the Health and Welfare Canada initiative on impaired driving. The Steering Committee is presently ongoing and the province will continue to have provincial representation.

Committee members made inquiries with their local and associate agencies at the national level soliciting information on a continual basis.

4.1 The Federal Initiative

The federal Department of Justice, following the implementation of Bill C-19, the amendments to the Criminal Code, dealing with impaired driving on December 4, 1985 initiated the Justice Impaired Driving Fund.

The objectives of the fund, which was to run from September, 1986 to March, 1988, were to fund projects that would enhance the implementation of Bill C-19, support the efforts of the provinces and territories to combat impaired driving and to provide visibility for a coordinated federal/provincial effort to deal with the issue of impaired driving.

The Safe Driving Project, utilized in part to coordinate the workings of the P.E.I. Advisory Committee on Impaired Driving, was funded in large part under this initiative.

The federal government transferred responsibility for the impaired driving initiative from the justice department to Health and Welfare Canada on April 1, 1987. At that time, the federal government through Health & Welfare Canada designated 19.5 million dollars over a five-year period to be spent on a Community Action Program on Impaired Driving with a special focus on young people. Part of this funding is available to each province in specified amounts over the time period April 1, 1987 to March 31, 1992. It is hoped that community groups in each province will take advantage of this funding to develop programs and projects to reduce the social acceptability of impaired driving in their respective locales.

In conjunction with Health & Welfare Canada the Provincial Advisory Committee reviews, assesses and develops project proposals from interested individuals and groups. The following proposals were reviewed and subsequently funded by Health & Welfare Canada:

Students Against Driving Drunk (S.A.D.D.) Workshop, Charlottetown: This project proposed to bring Island high schools together to discuss the issues and concerns of impaired driving as they pertain to the youth of P.E.I. This project has subsequently been extended for 1988-89.

Community Legal Information Association, Charlottetown: The Association proposed the development of a pamphlet-type brochure which would contain the legal aspects of impaired driving as they pertain to Prince Edward Island.

Mann House, Charlottetown: Mann House, an organization dealing with chemically dependent women, proposed a project that would zero in on the impaired driving issues as they pertain to women within the province of P.E.I.

Further proposals are expected through this initiative presently in its second year of a five-year program.

In this regard, community development within the province will continue in some form and therefore will need direction and guidance.

II

THE MAGNITUDE OF THE PROBLEM

"Nobody should have to live one moment in the hell that a drunk driver creates because people refuse to take responsibility for their actions, or because society permits and promotes impaired driving."

- An Island Victim

1.0 THE ISSUES:

It has been argued that impaired driving causes more harm to and extracts more costs from society than does any other single behaviour.[1] Costs to the Canadian taxpayer through the deaths and injuries of its citizens and property damage resulting from alcohol-related traffic accidents are conservatively estimated to run approximately $1.1 billion annually. This figure is broken down into component costs in the table below.[2]

Figure 1. Societal Costs of Impaired Driving

Income Loss	$650 million
Property Damage	$320 million
Health Care	$ 70 million
Criminal Justice System	$100 million
TOTAL	$1,140 million

2.0 THE EXTENT OF THE PROBLEM:

The popular adage, "One death is one death too many," exemplifies the importance of determining success or failure with regards to highway safety programs. It takes on further importance when one adds impairment by alcohol and/or other drugs as a mitigating factor.

Between 80% to 90% of all traffic crashes result from human error and conditions. The most common human condition is impairment due to alcohol and/or other drugs.

The Traffic Injury Research Foundation (TIRF) estimates that between 45% to 51% of all drivers killed on Canadian roads were impaired at the time of their deaths.[3]

---

[1] Mercer, William, as cited in Alford, David, Impaired Driving Facts and Figures, Ottawa, Department of Justice (1986), p. 17.

[2] Alford, David, ibid, p. 47.

[3] Transport Canada, Smashed, Road Safety and Motor Vehicle Registration Directory (1987), p.p. 2-3.

These national figures and trends are also reflected on Prince Edward Island.

In 1986, 60% of all traffic accidents involving death were the result of the misuse of alcohol. Though 1987 saw a substantial decrease in alcohol related highway fatalities where seven of the seventeen highway fatalities or 41% were alcohol related in some way, the number of highway collisions increased ten percent.

Figures 2, 3 and 4 provide some interesting insights into the P.E.I. highway collisions, fatality rates and the distribution of blood alcohol concentrations among fatally injured drivers. It cannot be ignored, as Figure 3 indicates, that Prince Edward Island led the nation in fatality rates from 1984 to 1986 inclusively!

Figure 2. Summary Figures of P.E.I. Highway Traffic Fatalities, Injuries, Collisions and Alcohol Related Fatal Collisions

	1981	1982	1983	1984	1985	1986	1987
Persons Killed*	21	16	31	31	37	29	18
Persons Injured	715	640	861	886	882	813	995
Number of Fatal Collisions/Alcohol Related*	18/12	14/8	29/16	26/15	34/22	20/12	17/7
Number of Collisions Reported	2642	2533	2884	3169	3506	3296	3644

* Some accidents involve more than one fatality.

Source: Highway Safety Division, Charlottetown

Figure 3. Provincial Comparison of Fatality Rates per 100 Million Vehicle Kilometres Travelled - 1980-1986

	1980	1981	1982	1983	1984	1985	1986
P.E.I.	3.5	2.3	1.9	3.6	3.6	4.4	3.4
Quebec	3.4	3.6	3.0	3.5	3.6	4.2	3.1
New Brunswick	3.7	3.4	4.0	2.6	3.3	3.0	2.8
Nova Scotia	3.2	2.8	3.1	3.0	2.8	2.9	2.5
Alberta	2.9	3.0	2.2	1.9	2.1	2.5	2.4
Saskatchewan	2.6	2.7	2.5	2.4	2.2	2.1	2.4
Newfoundland	2.7	2.6	2.6	3.7	2.2	2.5	2.2
Ontario	2.3	2.2	1.7	1.8	1.6	1.7	1.6
B.C.	3.7	3.8	3.0	3.2	2.8	2.6	N/A
Manitoba	2.1	2.5	2.0	1.8	1.7	1.8	N/A
Canada	2.7	2.7	2.3	2.3	2.3	2.4	2.2

Source: Alberta Transportation Collision Statistics
Transportation and Utilities, Motor Services - Research
- 01-Mar-88

Figure 4. Distribution of Blood Alcohol Concentration Among Fatally Injured Drivers* According to Vehicle Type, by Year of Death (Prince Edward Island)

YEAR	VEHICLE TYPE	TOTAL NUMBER OF DRIVERS	NUMBER OF DRIVERS TESTED (% TOTAL)	NUMBER HAD BEEN DRINKING (% TESTED)	NUMBER >80mg% (% TESTED)	NUMBER OF DRIVERS BY BLOOD ALCOHOL CONCENTRATION (% of NUMBER TESTED)				
						ZERO	1-49	50-80	81-150	>150
1984										
	AUTO	12	10 (83.3)	7 (70.0)	6 (60.0)	3 (30.0)	1 (10.0)	0 (0.0)	0 (0.0)	6 (60.0)
	TRUCK-VAN	6	6 (100)	3 (50.0)	3 (50.0)	3 (50.0)	0 (0.0)	0 (0.0)	0 (0.0)	3 (50.0)
	TRACTOR-TRAILER	0	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)
	MOTORCYCLE	1	1 (100)	1 (100)	1 (100)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	1 (100)
1985										
	AUTO	8	7 (87.5)	3 (42.9)	3 (42.9)	4 (57.1)	0 (0.0)	0 (0.0)	0 (0.0)	3 (42.9)
	TRUCK-VAN	0	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)
	TRACTOR-TRAILER	1	1 (100)	1 (100)	1 (100)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	1 (100)
	MOTORCYCLE	4	4 (100)	3 (75.0)	2 (50.0)	1 (25.0)	1 (25.0)	0 (0.0)	0 (0.0)	2 (50.0)

* 16 years of age

Traffic Injury Research Foundation of Canada, 1986.

There is no way of knowing however the overall extent of alcohol involvement in all fatal road accidents because only the drivers, themselves victims of fatal road accidents, are tested for blood alcohol concentration (B.A.C.) levels. How many innocent victims are killed or injured because of this type of behaviour is unknown. It may suffice to state simply that the seriousness of the road crash problem is reflected in the fact that road crashes are the leading cause of death of people under the age of 45.[4]

---

[4] Transport Canada, ibid, p. 2.

Initially, the impaired driving issue appears quite concrete if one accepts that it is simply the mixture of two well known social practices: drinking and driving. Of course, one only has to look into the "raison d'etre" of the two components to realize the complexity of the problem.

2.1 Who Drinks?:

Self report surveys are extremely limited in providing reliable figures with which to establish consumption trends. Annual series of alcohol sales statistics are more accurate and therefore are frequently employed as a base from which to determine consumption rates.[5]

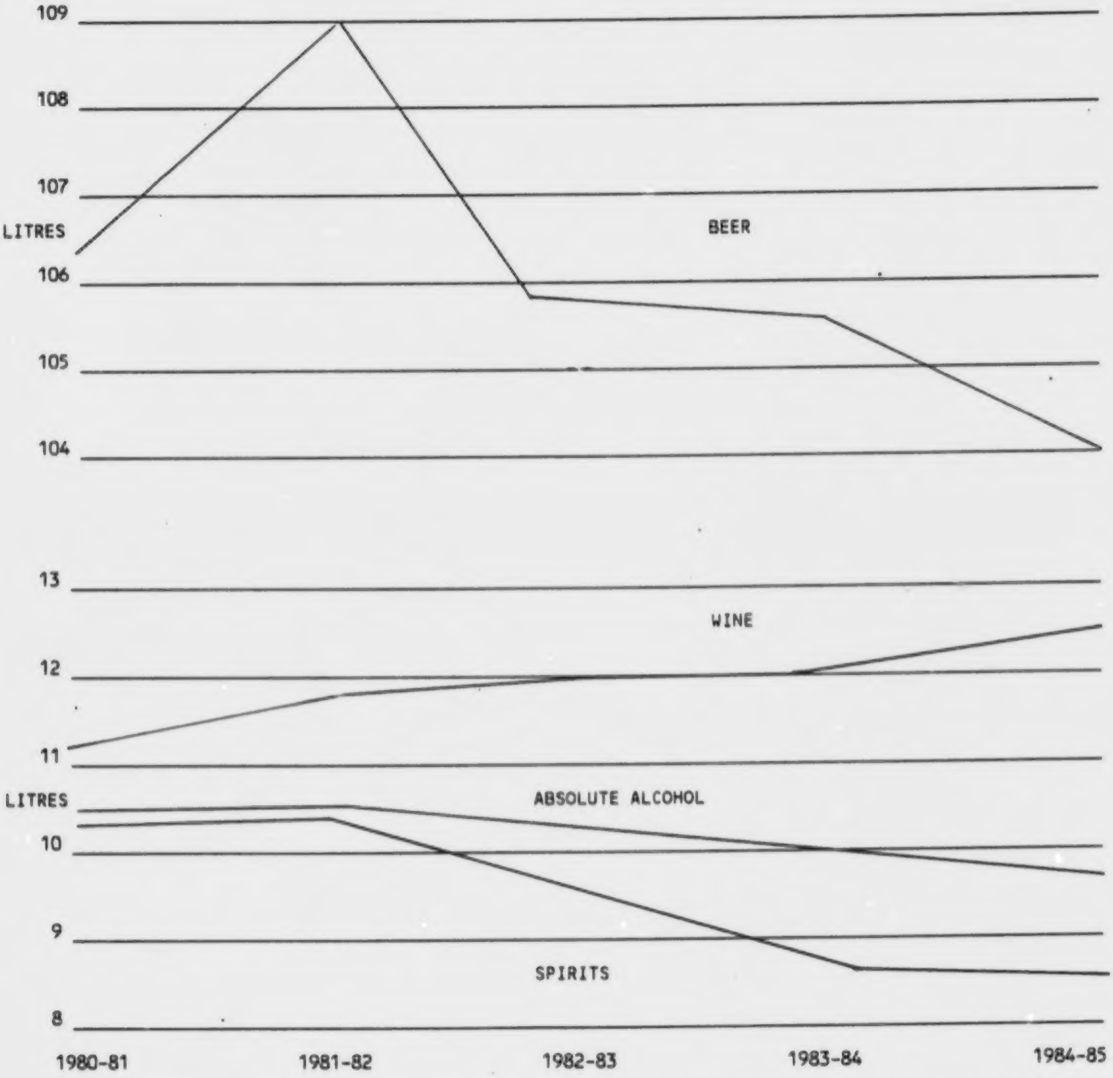
Based on sales figures, per capita alcohol consumption by Canadians aged 15 and older increased from 7.4 to 11.3 litres of absolute alcohol annually, between 1963 to 1983. ("Absolute alcohol" refers to pure alcohol content, independent of other beverage constituents.)[6]while a decrease is noted between the years 1983 to 1985 in alcohol consumption in all alcohol beverages except wine (Figure 5).

---

5. NOTE: It is recognized that all survey data tend to under-estimate alcohol consumption.

6. Government of Canada, Perspectives on the Alcohol/Traffic Safety Problem in Canada (No date), p. 7.

Figure 5. Sales of Alcoholic Beverages: Litres Per Capita (Aged 15 Years and Older), Canada, 1980-81 to 1984-85



Source: Statistics Canada General Social Survey, Health & Social Support (Draft) 1986

Prince Edward Island consumption figures are illustrated by gallonage sold in three categories (beer, spirits, wine) over a three-year period from 1984 to 1987 (Figure 6).

Figure 6. Gallonage of Alcoholic Beverages by Type Sold in P.E.I. (1984-1987)

GALLONAGE	BEER	SPIRITS	WINE	TOTAL
1986-87	1,915,092	172,319.6	117,202	2,204,613.6
1985-86	1,929,902	178,320.5	123,839	2,271,408.5
1984-85	1,984,831	188,557.3	116,477	2,289,865.3

Source: P.E.I. Liquor Control Commission (1988)

There is significant cause for concern on the other hand that the decrease in consumption rates does not hold true for adolescents and young adults. In fact, one may argue that the drinking levels of this important age group may in fact be increasing at the expense of an overall decrease in the general population.

A 1986 general social survey by Statistics Canada indicated that 53 percent of males in Atlantic Canada in the age group 15 to 19 years were regular drinkers (at least one drink per week) while in the age group, 20 to 24 years, the percentage of regular drinkers increased to 89 percent. It is significant to note that the remaining group categories show decreases in alcohol usage. (See Figure 7)

Figure 7. Indicator 7 - Alcohol Consumption (Regular Drinkers as a Percentage of Population Aged 15 and Over by Age, Sex and Region, 1985)

	CANADA	ATLANTIC	QUEBEC	ONTARIO	PRAIRIES	B.C.
MALES						
TOTAL 15+	74	67	73	76	73	75
15-19	57	53	65	53	64	45
20-24	86	89	80	88	89	89
25-44	81	74	82	84	80	78
45-64	70	59	63	75	66	79
65+	56	44	59	58	50	63
FEMALES						
TOTAL 15+	53	40	50	56	53	59
15-19	45	33	45	39	53	57
20-24	54	57	65	69	63	67
25-44	59	46	57	62	59	62
45-64	46	38	47	56	51	62
65+	31	16	20	39	28	41
BOTH SEXES 15+						
	63	53	61	66	63	67

Source: Statistics Canada, General Social Survey, Health and Social Support (Draft) 1986

As will be demonstrated in a subsequent section of this report alcohol usage combined with driving a vehicle by the 16-19 age group of the population can have serious consequences.

In summation, the widespread use of alcohol and the problems it may cause are well documented in a 1978 Canada Health Survey. The survey indicated that only 16 percent of Canadians fifteen years of age or older totally abstain from any alcohol use. Furthermore, it was estimated that 13 percent of adolescents and 11.5 percent of young adults (20-24 age group) were experiencing alcohol related problems in the areas of health, workplace, school and the courts.[7]

It is significant to note that it is the above-mentioned age groups that comprise, in part, the population at risk with regards to impaired driving.

2.2 Who Drives?:

It is perhaps more appropriate to discuss who does not drive and why as opposed to who does. Nevertheless, the Traffic Injury Research Foundation (TIRF) estimates that there are more than 15 million licensed drivers in Canada who drive more than 180 billion kilometres annually.[8]

The Highway Safety Division of the Department of Transportation and Public Works of P.E.I. reports that there are approximately 80,000 licensed drivers in the province of P.E.I. as of 1987 travelling an estimated 9 million kilometres annually. (For breakdown of Island drivers, refer to research report for further information, Volume II, page 47.)

If one recognizes that P.E.I. lacks an adequate public transportation system it is understandable, though disconcerting, that Islanders passionately feel it is their right, not their privilege, to continue using the mode of transportation first introduced by Father Belcourt of South Rustico to Prince Edward Island - the automobile.

2.3 Who Drives Impaired?:

The most accurate answer to this question is simply unknown. The bulk of the information that is known on the impaired driver comes from those individuals who have been apprehended. The unknown factor, of course, is just how many individuals participate in this type of activity and do not get caught. A 1986 Manitoba Night Time Survey estimated that one out of every five drivers on the

---

7. Government of Canada, op. cit., p.p. 7-8.

8. Traffic Injury Research Foundation, Vol. 4 (1985), p. 25-29.

road at night as having at least a moderate amount of alcohol in their system and that one out of every twenty drivers operating a vehicle at night was legally impaired.[9] Similar surveys have been carried out in other provinces as well.

The P.E.I. research study covering the period from 1983 to 1987 inclusively has developed its data from known sources - charges laid by police. The study indicated that 5,335 individuals were charged with impaired driving offences during this five year period.[10] Though the study shows an overall decrease of 27 percent in charges laid from 1983 to 1987, Prince Edward Island still ranked sixth among the provinces and territories in the rate of impaired driving charges in 1987. Interestingly, P.E.I. shows a 4 percent increase in the rate of impaired driving charges from 1986 to 1987, indicating perhaps population fluctuations within the province.[11]

An accurate profile of the impaired driver and a process to enable one to predict this type of behaviour remains elusive; however, research in the area of highway safety has produced some relevant insights.

Mercer (1986) of Counter Attack, British Columbia, maintains that there is a reckless driving pattern and a drinking and driving pattern which are interrelated and associated with frequent and severe traffic accidents. Mercer's study held that a relatively small proportion (5%) of drivers involve themselves in a relatively large number of accidents (44%). These findings point to a high risk driving style that includes both reckless driving and drinking driving.[12]

An exhaustive comprehensive survey by the Traffic Injury Research Foundation of existing literature on the subject of impaired driving states that there is more than one profile of the impaired driver.

---

9. Minch, Candice, Manitoba Roadside Survey of Night Time Driving Behaviour, Federal Ministry of Transport and Department of Attorney General and Highways of Manitoba (1988), pp. 20-21.

10. Durie, Helen, Impaired Driving on P.E.I.: A Study of Impaired Charges: 1983-1987 (1988), p. 4.

11. Statistics Canada, Juristat, 8:4 (1988), p. 6.

12. Mercer, William, Counter Attack (1986), p. 3.

The Foundation states that drinking drivers are a very heterogeneous group simply because just about everyone who drives and consumes alcohol probably combines these activities, at least occasionally.[13]

Nevertheless, a review of the literature indicates:

a) Some impaired drivers are chronic drinkers.

b) Others are young persons inexperienced in both drinking and driving.

c) Some impaired drivers are really problem drivers who might occasionally also drink.

d) Others may have underlying personality or psychological problems, of which drinking is just one manifestation; driving is superimposed to produce yet another, perhaps more obvious problem.

e) Still others may be experiencing temporary, situational stress.

Interestingly, some support the contention that not all drinkers are equally dangerous when driving and that overemphasis on alcohol as a direct causal agent in traffic accidents may obscure the role of personality and emotional factors of the driver.[14]

---

13. Alford, David G., Impaired Driving Facts and Figures, Ottawa, Department of Justice (1986), p. 18, as cited in TIRF, Vol. 1, 1985.

14. Jonah, Brian D., and Wilson, R. Jean, Impaired Drivers Who Have Never Been Caught: Are They Different from Convicted Impaired Drivers?, Penn. SAE Technical Paper Series, No. 860195 (1986), p.p. 83-93.

Regardless, the only conclusion anyone can make with any certainty is that people drink and drive for many reasons and a narrow, singular approach for a solution will not address the problem.

3.0 GENERAL CHARACTERISTICS OF THE IMPAIRED DRIVER

The following is a selected list of information pertaining to the phenomenon of impaired driving and of those who participate in it. Data from the research study on Island impaired drivers (1988) conducted in conjunction with the Safe Driving Project is included where possible as a comparison to national figures. The complete Prince Edward Island research study is contained in Volume II of this report.

3.1 Alcoholism

- It is frequently demonstrated that individuals with alcohol-related problems are over represented among those arrested for drinking-driving offences. Vingilis (1983) estimates that the proportion of drinking drivers who would likely be considered alcoholics is 30-50 percent.[15]

  Donovan (1983) estimates the incidents of alcoholism among individuals arrested for driving while impaired range from 20 to 80 percent with the incidence of alcoholism increasing as a factor in multiple impaired driving infractions.[16]

  There are no readily available data on P.E.I. to specifically compare figures regarding drinking status and impaired driving charges. However, officials from the Highway Safety Division and Addiction Services in P.E.I. estimate that a large proportion of those individuals required to attend an addictions assessment after their third conviction end up in addiction programs. This would therefore appear to support the trends indicated above.

---

[15] Vingilis, E., (1983) cited in TIRF, Vol. 1, 1985, p. 40.

[16] Donovan, D., et al, Drinking Behaviour, Personality Factors and High Risk Driving, Journal of Studies on Alcohol, 44(3), pp. 398-400.

3.2 Blood Alcohol Concentration Levels

The B.A.C. (Blood Alcohol Concentration) is one of the more readily measured attributes of drinking drivers. This variable serves to define the behaviour as well as to quantify the extent of alcohol use. Additionally, as an indicator of the degree of impairment, it serves to act as a value judgment as to the seriousness of the crime.

It is documented that the proportion of apprehended drinking drivers increases with B.A.C. indicating that a driver with a high B.A.C. is much more likely to be stopped by the police.

Alford (1986) cites a 1982 Federal Department of Justice study revealing that those apprehended for drinking and driving had an average B.A.C. of 172 mg %. Approximately 70% of the cases had B.A.C.'s in excess of 150 mg % while only 6% had B.A.C.'s between 80 mg % and 100 mg %. Thus, supporting the above contention that only the most obviously impaired drivers come to the attention of the police.[17]

The Island study (1988) indicated that out of 3,578 drivers administered the breathalyzer between 1983 and 1987 the average B.A.C. reading was 164 % mg - approximately eight (8) points lower than the 1982 Federal Department of Justice study.[18]

3.3 Age

TIRF figures indicate that drivers aged 16-19 account for 23% of all fatalities and 18% of injuries while only comprising 15% of the drivers on the road. It would appear that inexperience in the operation of a motor vehicle combined with alcohol make for a deadly mix. According to TIRF, young drivers are most often sober drivers, but when they do drink, even at relatively low B.A.C. levels, they have a very high probability of accident involvement.[19]

---

[17] Alford, David G., op. cit., p. 19.

[18] Durie, H., Impaired Driving on P.E.I., A Study of Impaired Charges: 1983-1987 (1988), pp. 18-21.

[19] Alford, David, op.cit., p.p. 20-21.

Random road-side surveys indicate that the age group most likely to be impaired is the group 20 to 44 years.

The five year P.E.I. study indicated that 16-19 year olds comprised 9.4% of the total drivers charged with impairment during this period. Whereas two-thirds (66 percent) of all drivers charged were aged between 20 and 40 years. This is approximately a six percent higher proportion than found in other Canadian studies. The oldest apprehended driver in the study was eighty-four (84) years of age.[20]

3.4 Gender

If an impaired driver is apprehended, chances are that the driver will be male. National statistics relay 90% to 95% of all drivers charged for impaired driving, 80% of fatally injured drivers and approximately 70% of drivers injured in accidents are male.[21]

Island statistics illustrate similar trends with ninety-four percent (94%) of all drivers apprehended from 1983 to 1987 being male.

Of importance, however, is the fact that the percentage of fatally injured female drivers who were impaired has increased from 11% in 1973 to almost 18% in 1982 in Canada.

Similarly, in the Island study the proportion of incidents involving a female driver shows an almost four-fold increase over that found in a 1971-72 study of P.E.I. impaired driving.[22]

---

[20] Durie, H., op.cit., pp. 9-11.

[21] TIRF, Vol. 1, 1985, pp. 31-33.

[22] Durie, H., op. cit., p. 8.

3.5 Origin of Trip

A self-report study by Jonah and Wilson (1986) of 180 individuals indicates that 73% of the sample population reported having recently driven while impaired after frequenting taverns.[23]

TIRF indicates that random roadside surveys show individuals leaving bars and restaurants have the greatest proportion of positive B.A.C.'s: 57% and 33% respectively. The third among trip origins is a friend's home.[24]

The automobile itself is also a place where alcohol is consumed. A 1986 study of 241 convicted drinking drivers in London, Ontario, for example, revealed that 11.2% of those convicted had drank alcohol in their automobiles just prior to arrest.[25]

3.6 Repeat Offenders

It has been conservatively estimated that repeat offenders comprise between 10% and 38% of all impaired drivers. This range has been known to be as high as 25% to 35%.[26]

Interestingly, 1986 data from Highway Safety Division, Charlottetown, shows that 45% of those convicted for impaired driving offences in 1986 had at some time in their driving careers been convicted of a previous impaired driving offence.

---

[23] Jonah and Wilson, op.cit., p. 84.

[24] As cited in Alford, op.cit., P. 21.

[25] Ministry of the Attorney General's Office, Countermeasures 2(1), Toronto (1988), p. 8.

[26] Alford, op.cit., P. 20.

Specifically related to the recent study of impaired drivers on P.E.I. from 1983 to 1987 it was shown that one in five or 20 percent of the 3,655 drivers charged during this period were repeat offenders. These figures are in line with the national trends noted above.[27]

Repeat offenders are more likely to be problem drinkers, are likely to be charged again within two years of their original impaired driving conviction, and have been found to have higher B.A.C.'s than first offenders.[28]

3.7 Time Of Day of Incident

Consistent with national trends, the P.E.I. study revealed that almost two-thirds (61.2%) of the incidents of impaired driving coming to the attention of the police occurred between 9 p.m. and 3 a.m. with twenty percent (20%) taking place between midnight and 1:30 a.m.[29]

3.8 The Impaired Driver: An Island Profile

The research study of impaired driving charges on P.E.I. from 1983 to 1987 allows one to create a very basic profile of the impaired driver within the province.

"The impaired driver is likely to be a male under 30, without a previous conviction for impaired driving. He will most likely come to the attention of the RCMP on road patrol because of abnormal driving behaviour which doesn't involve injury to himself or others (although the risk is there). The incident will most likely occur during late night hours, on a rural highway, during clear weather months. He will have a blood alcohol concentration of just over 150 mg., be charged with "driving with over 80 mg. of alcohol," and convicted in court. His sentence will be a fine of at least $800 and a jail term of at least three days in jail."[30]

---

[27] Durie, H.,, op.cit., p. 11.

[28] TIRF, Vol. 1, (1985), pp. 44-46.

[29] Durie, H., op.cit., P. 21.

[30] Durie, H., op.cit., P. 41.

4.0 A SUMMATION: THE TARGET GROUPS:

The population of the province of Prince Edward Island, like any other, is indeed a population at risk. That is to say, everybody has the potential to be affected by a drinking driver. Any initiative to deal with this dilemma must provide countermeasures and intervention strategies that acknowledge the presence of specific groups within the total population. To this end the Addiction Research Foundation (Ontario) suggests four target groups that must be addressed if the attitudes regarding the social acceptability of drinking and driving are going to change.[31]

(i) **Drinking drivers who exceed legal limits and are involved in a collision or are charged with a violation.**

Goal: Remove these people from the roads until the threat of future occurrence is reduced.

(ii) **Drinking drivers who exceed the legal limits, but have not been involved in a collision or charged with a violation.**

Goal: Reduce the threat posed by these people by lowering or eliminating the frequency with which they drink and drive.

(iii) **Drinking drivers who do not exceed legal limits and are not involved in a collision or charged with a violation.**

Goal: Persuade these people to monitor their alcohol intake before driving and reduce even further the frequency with which they drink and drive.

---

[31] Addiction Research Foundation, A Programmer's Guide to Community-Based Countermeasures (Toronto, 1985), p.p. 18-19.

(iv) **People who do not drink and drive.**

Goal: Strengthen the resolution of these people to keep from drinking and driving and persuade them to influence others.

The above target groups and corresponding goals for their completion can be adapted to a province-wide countermeasures program in Prince Edward Island.

A utilization of this framework will encourage a coordinated effort from all sectors of the Island community. Most importantly perhaps, this framework will allow the local individual from any aspect of Island life to take ownership and ultimately responsibility for the solution to the problem of impaired driving.

III

THE RESPONSE: LEGISLATION

"The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country."

- Winston Churchill, 1910

1.0 IMPAIRED DRIVING LEGISLATION: AN HISTORICAL OVERVIEW

The relationship between alcohol consumption and transportation accidents were of significant concern long before the prolific use of the private automobile. It is known, for example, that maritime and railway disasters during the 1800's in North America led to regulations prohibiting steamship crews and railway workers from drinking while on duty.

In 1872, England enacted one of the first known laws against "drunk driving."

> **Every person...who is drunk while in charge on any highway or other public place of any carriage, horse, cattle, or steam engine may be apprehended, and shall be liable to a penalty not exceeding forty shillings, or in any discretion of the court to imprisonment...for any term not exceeding one month.**[32]

The above law has come to be known as an example of "classical drinking and driving legislation." Subsequent laws prohibiting driving motor vehicles while "drunk" or "impaired were first introduced in Sweden (1925) and England (1930).

The classical impaired driving laws were wrought with legal difficulties. Among the many problems with these types of laws were problems of judgment and the subsequent imprecision of such concepts as "drunk," "intoxication," "alcohol influence," and " impairment." When tested and challenged in a court of law even the most expert judgments on these matters were notoriously unreliable.[33]

The history of impaired driving legislation reached a critical point with the development of chemical testing ascertaining the levels of alcohol present in body fluids. (Breath testing was to come later.) This technology combined with significant research correlating the effects of alcohol consumption on psychomotor skills led to the establishment of two pieces of legislation similar in many respects to what exists today.

---

[32] Alford, David, Impaired Driving Legislation: Comparison Among Countries, Ottawa, Department of Justice (1986), p. 1.

[33] Alford, David, op.cit., pp. 2-3.

Firstly, laws were introduced providing for chemical tests of blood from persons accused of a drinking and driving offence. These laws imposing statutory blood alcohol limits first occurred in Norway in 1927.

Secondly, two types of legislation were enacted to cope with the problem of "proving" impairment due to alcohol consumption. Both types of legislation specified how the results of chemical tests were to be considered by the courts. In short, they inferred legal presumptive limits that designated when legal impairment would occur.

The first type of law, initially appearing in the state of Indiana, U.S.A., in 1939, specified the extent to which chemical test results could be considered "prima facie" evidence of alcohol impairment unless disproved.[34]

The second type of law, now known as the per se law, was first enacted in 1936 with Norway once again leading the way. That law simply prohibited driving with a blood alcohol concentration of 50 mg % or greater. In other words, it became illegal per se to drive with a blood alcohol concentration (BAC) exceeding the set legal limit. The notion of impairment is implied in this type of law, the assumption being that the individual with a blood alcohol concentration over the legal limit constitutes a condition of impairment in varying degrees. The fact that the individual may or may not show evident signs of physical impairment is an indisputable point since the offence is that of operating a motor vehicle over the set legal limit, not impairment in and of itself.

The British Road Safety Act of 1967 introduced per se legislation with a legal limit of 80 mg % in 1967. Canada introduced its own per se legislation soon afterwards. The trend of replacing presumptive limit legislation with per se laws continues to this day.

---

[34] Contained in correspondence between Jack Watson, Q.C., Agent of the Attorney General, Edmonton, Alberta, and Dr. Alan Donelson, Traffic Injury Research Foundation of Canada, Ottawa - 02/23/88.

2.0 THE CANADIAN CONTEXT

Before 1921, the only prohibitions against impaired driving in Canada were contained in the traffic laws of the individual provinces. In that year the federal government amended the Criminal Code to make it illegal for any person to have the "care or control" of a vehicle while "intoxicated or under the influence of a narcotic."[35]

Ensuing constitutional cases saw this law upheld as being a valid exercise of the federal government's power to pass "criminal laws" for the country.[36] Nevertheless, though the federal government maintains the right to pass criminal law, the Constitutional Act of 1867 still directs provincial governments to take responsibility for enforcing criminal law as well as for prosecuting and punishing offenders.

The history of Canadian legislation related to impaired driving can be categorized into four phases: Classical Law (1921-1950), Corroborative Chemical Testing (1951-1969), Per Se Law (1969-1976), and Post Per Se Law Period (1976 to present).[37]

Arguably, the turning point in impaired driving legislation which allowed for the introduction of breath testing analysis as evidence in court occurred in the provisions outlined in the Criminal Law Amendment Act, 1969.

The main features of the provisions were that:

1. it empowered police officers to request a breath sample if they had reasonable and probable grounds to believe that the driver was impaired;
2. it introduced a provision that a .08 Blood Alcohol Concentration (BAC) reading was conclusive legal evidence of impairment; and
3. it made the penalty for refusing to give a breath sample the same as the penalty for failing the test.

---

[35] Ibid., p.25.

[36] Ibid., p. 25.

[37] Refer to Appendix 4 for a complete list of legislative changes by chronological order.

In 1976 a number of amendments were made to the 1969 legislation, including an increase in the penalties, a provision permitting a conditional discharge if treatment was undertaken by the offender, a provision permitting roadside testing of drivers and amendments of a technical nature.

2.1 A Public Concern: Legislative Change

Though the then new legislation allowed for "smoother" prosecution of driving while impaired cases and had a moderate effect on the decrease of accidents causing injury and death the effect was not sustained. A growing public concern over the basic fact that drinking and driving remains the largest single criminal cause of death in Canada led to the spawning of numerous citizen's lobby groups, including M.A.D.D. (Mothers Against Drunk Drivers), PRIDE (People to Reduce Impaired Driving Everywhere) and S.A.D.D. (Students Against Driving Drunk) to name a few.

A common mandate of these and other private citizen groups is to raise a general awareness of the basic issues of the destructive nature of impaired driving and to bring these issues to the attention of the decision makers of the community. Though some would argue to the contrary their call has not gone unheard.

On December 4, 1985, the federal government enacted a broad package of reforms in the drinking and driving laws after reviewing and considering a number of policy options. Generally, it was decided that the most productive gains could be made by focusing on making tough new laws and by emphasizing that impaired driving is a crime with serious consequences.

2.2 Bill C-19 Legislative Objectives

The intent of the most recent legal amendments can be listed as follows:[38]

a) Increase penalties for impaired driving, including increased maximum and minimum fines for first offenders and potential jail terms for repeat offenders.

b) Prohibit impaired drivers from driving again, as a further penalty and as a prevention of repeat offences.

c) Extend impaired driving laws to also cover impaired boating and flying.

d) Facilitate law enforcement by permitting blood testing as a way of closing loopholes which existed in the area of breath sample testing.

2.3 Current Federal Criminal Code Impaired Driving Provisions

The scope of the current legislation is far-reaching. Many people, for example, assume they must be driving a car on a public road to be charged with a drinking and driving offence. However, one can be charged for example while sitting on a snowmobile parked on one's property.

There are three common elements of the legislation that contribute to its scope.[39]

Location: Drinking and driving offences can occur anywhere. Drivers have been convicted when found on their own property, a vacant lot, or the property of a third person.

Definition of the term "motor vehicle": Drinking and driving offences apply to any motorized vehicle. The Criminal Code defines this term as any vehicle, except a train, that is driven by any means other than muscle power. Included are motorcycle, motorized bicycles, snowmobiles, all terrain vehicles, boats, aircraft, golf carts, tractors and even self-propelled lawnmowers.

---

[38] Alford, David, Impaired Driving Facts and Figures, Ottawa, Department of Justice (1986), p.6.

[39] Addiction Research Foundation, The Journal (March, 1986), p.12.

Definition of the term "care or control": An individual can be convicted of an impaired driving offence not only when driving but also if he or she is judged to have "care or control" of a motor vehicle. Canadian courts have broadly defined "care or control" to include any act involving the use of a vehicle, its fittings or its equipment. If one is found in a vehicle with the ignition keys, or near a vehicle in circumstances suggesting one intends to drive, that person will likely be held to have "care or control."

2.3.1 PRESENT CRIMINAL CODE SECTIONS: PROCEDURAL HIGHLIGHTS[40]

Note: Criminal Code section numbers have changed effective December 12, 1988.

Impaired Operation of a Motor Vehicle

Section 237(a) of the Criminal Code of Canada stipulates:

> **"Everyone commits an offence who operates a motor vehicle or vessel or operates or assists in the operation of an aircraft or has the care or control of a motor vehicle, vessel or aircraft whether it is in motion or not...while his ability to operate the vehicle, vessel or aircraft is impaired by alcohol or a drug..."**

The major question is whether one's ability to operate a motor vehicle has been impaired by alcohol or drug not whether one is driving in a careless or dangerous manner. Also, the amount of alcohol or drug consumed is irrelevant.

The word "impaired" is not defined in the Criminal Code. Its definition has been left to the courts who usually try to determine whether the driver had complete control of the vehicle. It is not essential that the driver be visibly intoxicated.

The arresting police officer often relies on his or her own powers of observation in deciding whether a person is impaired. A strong odor of alcohol on the breath, bloodshot and/or watery eyes, poor balance, slurred speech to list a few characteristics may help the officer determine impairment. This checklist becomes part of the police officer's evidence in court and is open to cross-examination.

---

[40] The format for the following discussion was taken from the excellent article "Rules for the Road: Canada's Driving While Impaired Legislation," The Journal, March, 1986, Ontario Addiction Research Foundation.

Driving with a Blood Alcohol Concentration (BAC) in Excess of 0.08%

Section 237(b) of the Criminal Code of Canada states:

"Everyone commits an offence who operates a motor vehicle...or has the care or control of a motor vehicle...having consumed alcohol in such a quantity that the concentration thereof in his blood exceeds 80 milligrams of alcohol in 100 millilitres of blood."

Unlike **Section 237(a)**, this criminal offence is based on the quantity of alcohol in the blood. One's ability to drive and/or whether the driver is visibly intoxicated is of no consequence. A BAC in excess of 0.08% alone may be sufficient enough for a conviction in a court of law.

Blood alcohol levels are determined basically by two kinds of machines used to measure breath samples - the Breathalyzer and the Alcohol Level Evaluation Road Tester (ALERT). The ALERT, a portable, hand-held device, is used to screen drivers on location. Drivers who fail the ALERT are either dealt with on location or are transported to the nearest police station to conduct a formal Breathalyzer test.

It is important to keep the Breathalyzer readings in perspective. Even if a driver has a reading below 0.08%, he or she can still be charged with impaired driving based upon the process allowed for under **Section 237 (a)CCC.**

This last point was amplified in community discussions across the province. Many enforcement officers as well as the public at large are of the opinion that the legally allowable blood alcohol level of .08% mg is too high. It was stressed that the average driver may very well be impaired at a much lower BAC but on many occasions this is overlooked due to reliance upon existing allowable limits of legal impairment levels.

Furthermore, reliance upon the maximum allowable legal limit of .08% mg is not always what it appears to be. It was brought to the Advisory Committee's attention through meetings with police officials that criminal charges are laid only after a reading of .10% mg or more is registered on the breathalyzer machine. The level of .10% mg is viewed by police as the minimum level when a conviction can be assured. This policy is based upon the fact that the breathalyzer measures levels of alcohol content in the blood in units of .01% mg and that the law states that a person must be over the legal limit of .08% mg. Therefore, an individual must register at least a level of .09% mg for charges to be considered. An additional .01% mg is added for a margin of error. Thus the level of .10% mg is adhered to through policy directives and supported by court decisions.

Research indicates that the probability of being involved in or responsible for a motor vehicle accident appears to increase significantly as one's blood alcohol concentration exceeds .05% mg.[41] If this is the case, an allowable B.A.C. of .10% mg is two times the level generally assumed to be safe for motor vehicle operation. The Scandinavian countries of Sweden, Norway and Finland, world leaders in rigid impaired driving regulations, recognizing the increased risk of motor vehicle accidents when operated with blood alcohol levels above .05% mg, set their legal limits at this level.[42]

It is therefore recommended that:

1. **The provincial government of Prince Edward Island make its views known to the federal government supporting the reduction of the legal blood alcohol level from .08% mg to .05% mg through subsequent Criminal Code amendments.**

---

[41] Donovan, D., et al, Drinking Behaviour, Personality Factors and High Risk Driving, Journal of Studies on Alcohol, 44(3), 1983, p. 398.

[42] Alford, David, Impaired Driving Legislation: Comparisons Among Countries, Department of Justice, Ottawa (March, 1986), p.p. 4-9.

Refusal or Failure to Provide a Breath or Blood Sample

Sections 238(2), 238(3)(a), and 238(3)(b) of the Criminal Code of Canada allow police to demand breath or blood samples from a driver in three situations.

Section 238(2) allows a police officer to demand an ALERT breath sample from a driver whom he or she reasonably suspects has consumed alcohol. The officer does not have to believe that one is intoxicated, impaired or committing any offence. Based upon the results of the ALERT test the officer may then demand a breath sample for analysis.

Section 238(3)(a) allows for police officers to demand breath samples for Breathalyzer analysis from any driver they have reasonable and probable grounds to believe is operating, or has operated within the previous two hours, a motor vehicle while impaired by alcohol or driving with a BAL in excess of 0.08%.

Section 238(3)(b) of the Criminal Code, a new section resulting from the amendments from Bill C-19 permits the police to demand blood samples from drivers in certain, limited circumstances.

Prior to Bill C-19 it was felt that some drivers were escaping criminal liability because of their incapability of providing breath samples. In addition to the reasonable and probable grounds as noted in **Section 238(3)(a)** the officer must believe that the driver is incapable of providing a breath sample or circumstances of the situation such as injury or death make the taking of a breath sample impossible. Special warrants are needed in this latter case.

Blood samples can only be taken by or under the supervision of a doctor, who is satisfied the procedure will not endanger the driver's life or health.

It is a criminal offence to refuse a police officer's demand under the above-noted sections to provide a sample of breath or blood or to refuse to accompany the officer for the purpose of testing unless the driver has a "reasonable excuse."

The Supreme Court of Canada has held that under the Canadian Charter of Rights, a driver taken into police custody for the purposes of breath or blood testing is arrested or detained and therefore has the right to contact a lawyer.

In this regard the driver must be told by the officer that he or she has the right to talk to a lawyer and provide that person with an opportunity to converse with a lawyer in private. Also, it is the duty of the police officer to ensure the person understands this right.

Impaired or Dangerous Operation of a Motor Vehicle Causing Death or Bodily Harm

Prior to the Bill C-19 amendments of December, 1985, impaired drivers who caused injury or death were often only charged and convicted of the less serious offence of impaired driving or driving in excess of 0.08%. Rarely were drivers charged with the more serious offences of criminal negligence causing death, or criminal negligence in the operation of a motor vehicle.

The old laws required the charging of either bodily harm or death by criminal negligence which often proved problematic in terms of equating the illegal driving behaviour to criminal negligence, therefore the lesser included offence of impairment was more often than not the charge proceeded with.

Recently, two additions to the criminal code - impaired or dangerous operation of a motor vehicle causing bodily harm (Section 239(2)) and impaired or dangerous operation of a motor vehicle causing death (Section 239(3)) - have attempted to address this dilemma. The courts have broadened the definition of the concept of impairment, allowing for this element of the offence to be relatively easy to establish.

The old offences of criminal negligence causing death and criminal negligence causing bodily harm have been repealed.

Operating a Motor Vehicle While Disqualified

Section 242(4) of the Criminal Code, another recent addition, now makes it a Criminal Code offence to operate a motor vehicle while disqualified or prohibited from driving by the court, or if disqualified or subject to a license suspension imposed by provincial law. The understanding being that this offence previously solely found within provincial statutes has now been elevated to criminal status therefore allowing for more severe criminal and social sanctions.

2.3.2 THE PENALTIES AND SANCTIONS

The December 4, 1985, Criminal Code amendments increased the penalties for the pre-1985 impaired driving offences, established heavy penalties for the new additional offences, allowed for the imposition of stiffer sanctions for repeat offenders and provided judges with the authority to impose lengthy driving prohibitions on offenders.

Though the creation of driving prohibitions is now a criminal matter, the provinces through their various highway traffic acts have always had the authority to suspend or cancel driving licenses for impaired driving infractions.

Arguably, one may state, with little doubt, that the Prince Edward Island provincial court system has responded directly to the public outcry for stiffer sentences involving impaired drivers.

The P.E.I. research study relays that sentencing practices have changed dramatically over the five year period 1983 to 1987. In 1983, close to 100 percent of impaired driving convictions resulted in a fine, most often in the amount of $250. By 1987, 62 percent of all offenders received a combined fine/jail term; jail terms were usually a minimum of three days and a fine of $800 or more was imposed.[43]

The following chart (Figure 8) summarizes the minimum and maximum penalties allowed for impaired driving offences in the Criminal Code of Canada. Note that the provisions for a compulsory prison sentence for second or subsequent offences require special provisions be invoked in the prosecution of such offences. Also, while the curative treatment concept provided for in Section 239(5) of the Criminal Code of Canada allowing for a conditional discharge in sentencing has been proclaimed in P.E.I., its application by the courts has been extremely rare.

---

[43] Durie, H., P.E.I. Research Study, p. 31.

igure 8. CRIMINAL CODE PENALTIES FOR IMPAIRED DRIVING OFFENCES

IMPAIRED DRIVING OFFENCES	PREVIOUS LEGISLATION (Prior to Dec. 4/85)	EXISTING LEGISLATION (Effective Dec. 4/85)
Impaired Driving Causing Injury	N/A	Section 239(2) - Max. 10 yrs. imprisonment. Maximum 10 yrs. prohibition from driving (if less than 5 yrs. prison then max. yrs. prohibition from driving)
Impaired Driving Causing Death	N/A	Section 239(3) - Max. 14 yrs. imprisonment. Max. 10 yrs. prohibition from driving (if less than 5 yrs. prison then max. 3 yrs. prohibition from driving)
Impaired Driving	S.234 (motor vehicles only)	S.237(2) (motor vehicles, vessels & aircraft)
Over .08 Alcohol	S.236 (motor vehicles only)	S.237(b) (motor vehicles, vessels & aircraft)
Refuse Breathalyzer	S.235 (breath sample only)	S.238(3)(a) & (b) (breath & blood samples)
Refuse Roadside Breathalyzer	S.234.1	S.238(5)
SUMMARY CONVICTION		
- 1st offence	$50-$2,000 fine or 14 days-1 yr. prison	$300-$2,000 fine and 3 mos.-3 yrs. prohibition from driving and/or max. 6 mos. prison
- 2nd offence	14 days-1 yr. prison	14 days-6 mos. prison and 6 mos.-3 yrs. prohibition from driving
- Subsequent Offences	3 mos.-2 yrs. prison	3-6 mos. prison and 1-3 yrs. prohibition from driving
INDICTMENT		
- 1st offence	$50-$2,000 fine or 14 days-1 yr. prison	$300-unlimited fine and 3 mos.-3 yrs. prohibition from driving and 14 days-5 yrs. prison
- 2nd offence	14 days-1 yr. prison	14 days-5 yrs. prison and 6 mos.-3 yrs. prohibition from driving
- Subsequent Offences	90 days-2 yrs. prison	90 days-5 yrs. and 1-3 yrs. prohibition from driving
CONDITIONAL DISCHARGE	S.234(2) N/A	S.239(5) - Proclaimed in P.E.I. Conditional discharge which includes a condition requiring attendance for curative treatment for alcohol/drugs.

3.0 THE PROVINCIAL CONTEXT: PRINCE EDWARD ISLAND

As noted previously, although "criminal law is a federal matter under the Canadian Constitution, the "administration of justice" is the responsibility of the province. In addition to the administration of federal law the provinces also have the task of administering acts and regulations peculiar to their individual jurisdictions.

The province of Prince Edward Island has two such acts that have a direct role to play in the impaired driving scenario: the Highway Traffic Act of P.E.I., responsible for the issuing of vehicle registrations and driver permits and subsequent cancellations if required, and the Liquor Control Act of P.E.I., which directs itself to the regulation of alcohol marketing and sales within the province.

The Highway Traffic Act and the Liquor Control Act were popular discussion points with the Advisory Committee in its meetings across the province. Frequently, the impression was given that the areas of licensing and liquor control regulations could be evaluated and monitored more closely than federal legislation and therefore could be changed if necessary.It is recognized that both the Highway Traffic Act and the Liquor Control Act address themselves to many issues other than drinking and motor vehicle use. However, for the purposes of this report the Acts will be highlighted by concentrating on those sections pertaining to the subject matter at hand.

3.1 The Highway Traffic Act of PEI

In essence the operation of a motor vehicle is bound by rules as set down in the Criminal Code and the Highway Traffic Act of P.E.I. Theretore, after an offence has occurred that violates sections of the two pieces of legislation, the individual is obliged to receive a sanction from the court and a cancellation of one's driving privileges.

This fact is lost on much of the public and is a source of confusion. Indeed many view the Highway Traffic Act as an appendage of the Criminal Code. This is not the case.

A number of effective provisions in the Highway Traffic Act provide for the cancellation of driving privileges for those convicted of impaired driving offences pursuant to the Criminal Code. Under Section 247 of the Act, the Highway Safety Division shall without exception cancel one's driver license for a period of six months on a first offence, twelve months on a second offence if the offence occurred within two years of the first offence, and twenty-four months for a third conviction within a two year period of the first conviction.

Notwithstanding the criteria set down in Section 247 of the Highway Traffic Act, Section 250 of the Act provides the Registrar of Motor Vehicles in the province of P.E.I. with an all-encompassing authority to cancel any driver's license for an indefinite period for any violations of the Highway Traffic Act arising out of reckless or negligent driving or the use of intoxicants or for any other reason that in the opinion of the Registrar renders any person unfit to act as a driver.

Additional sections in the Highway Traffic Act prohibiting driving privileges include Section 258 HTA, a section similar to Section 242(4) of the Criminal Code, which stipulates penalties for driving while one's license or vehicle registration is under suspension. It would appear that Section 258 HTA will not be employed as frequently within the province now that Section 242(4) of the Criminal Code is in place. This Criminal Code section now recognizes cancellations that were imposed under provincial law.

The Committee is aware that enforcement personnel across the province are not using Section 242(4) of the Criminal Code in a uniform fashion whether it be a lack of understanding of this section or a reluctance to change from successful procedures previously employed under Section 258 of the Highway Traffic Act.

The use of Section 242(4) of the Criminal Code allows for the application of increased fines, subsequent license suspension and establishes a criminal record. In addition, use of this section increases the potential of the offender to become exposed to existing addiction treatment programs.

It is therefore recommended that:

2. Section 242(4) of the Criminal Code be applied consistently by all enforcement agencies within the province of P.E.I. when dealing with those individuals driving while disqualified.

Section 283 HTA outlining the offence for refusal to take a breathalyzer test on demand by a peace officer is also similar to federal Criminal Code convictions but has rarely, if ever, been used and perhaps can be seen as redundant now that the Criminal Code extensively covers the area of impaired driving.

A popular opinion from the public meetings was that an individual's driver's license was the most important commodity an individual can have on PEI and therefore increased restrictions regarding its access would be a more effective punishment than large fines and jail sentences.

In this regard the public felt that the standard six month cancellation as is presently employed by the Highway Safety Division should be increased to a minimum of twelve months for all first offenders.

There is no doubt that an additional six months added to a first conviction will command attention from potential impaired drivers. However, the Committee had to address itself to two issues if this were to take place.

Firstly, to double the length of suspension for a first conviction would consequently involve doubling the length of suspensions for second and third convictions. Conceivably, a third conviction within a two year period would command a suspension of a minimum of four years. Would this type of punishment create further deviance by encouraging the offender to operate a motor vehicle without a license?

Secondly, do repeat offenders need more punishment or sustained monitoring and treatment over a long term period?

In this regard the Committee centered its discussions on that part of Section 247 of the Highway Traffic Act which outlines the two year timeframe for repeat offenders. Presently under this section the accumulative license cancellation process is based upon a two year cycle. Therefore, an individual, for example, would receive a two year license cancellation if he or she acquires a third impaired driving conviction within a two year period of the first conviction. Conceivably, this same individual can commit a fourth impaired driving offence after the two year review period from the first offence has expired and be considered a first offender and receive the minimum six month license cancellation.

The Committee is of the opinion that the present two year review period is counterproductive. An alternative to increasing cancellation periods on first convictions would be to eliminate the two year review period and open it up to an indefinite period. This would improve the monitoring process of the repeat offender and allow for a continued exposure of existing regulations under the Highway Traffic Act while at the same time "tighten" up the existing license cancellation procedures.

It is therefore recommended that:

3. **An examination of the review time period as outlined in Section 247 of the Highway Traffic Act take place with the intention of eliminating the two year time limit for impaired driving convictions.**

3.1.1 ROADSIDE SUSPENSION

The 24 hour license suspension program has gained considerable attention with its use in several provinces across Canada. Twenty-four hour license suspension legislation provides a police officer with the authority to suspend an individual's driver's license at the roadside, if, in the officer's opinion, the driver shows minimal signs of impairment. In the case of alcohol impairment, a decision to temporarily suspend a driver's license may be based on an ALERT test showing a warning and/or a breathalyzer reading of more than .05 mg % but less than .10 mg %.[44] The driver is required to relinquish his/her driver's license immediately for up to twenty-four hours. The driver is therefore removed from the vehicle and off the road as soon as possible. The license is returned to the driver when he/she demonstrates to the police non-impairment.

The strength of a 24 hour license suspension program is that it allows the police to immediately eliminate the potential impaired driver from the roads. Frequently, police will stop a driver who has been drinking, but is not legally impaired at the time of detection. Concern in these situations is that alcohol may have been ingested immediately prior to the operation of a motor vehicle, and the full effect of the drug has not "taken hold" at the time of the police contact. These individuals, though legal drinking drivers, are potential impaired drivers within a relatively short period of time.

The Committee is of the opinion that any program that eliminates impaired drivers from the highways of P.E.I. deserves serious consideration. The 24 hour roadside suspension program however raises some concerns.

---

[44] See earlier discussion in this report regarding police charging policy for impaired drivers, p. 38.

A major immediate concern is that the program may be offensive to some aspects of the Canadian Charter of Rights and Freedoms but it is recognized that this concern can only be answered after the program's implementation. However, the program is operating in a number of other provinces.

Does an immediate suspension program interfere with the total number of impaired driving charges that may be laid under the Criminal Code? It is felt that the main priority of any enforcement program is to reduce impaired driving. An increase or corresponding decrease in Criminal Code charges is not indicative of how much impaired driving is happening and therefore levels of criminal charges should not be used as benchmarks. Indeed, there is some consensus that enforcement will improve. The use of the 24 hour suspension program will reduce the processing time it takes to deal with potentially impaired drivers and therefore allow the officer more time for additional surveillance. As well, this program allows the officer to deal with the "fringe" offender, that is, those individuals who register a sample of breath in the upper levels of allowable legal limits.

The Committee concluded that the 24 hour suspension program should be supported with caution. The program shows support for the enforcement agencies and allows them to practice police discretion. Finally, the program sends a powerful message to the public that drinking and driving generally is unacceptable.

It is recommended that:

4. **The Department of Justice and Attorney General, Highway Safety Division and law enforcement agencies review and examine experiences elsewhere on the 24 hour roadside suspension program with a view to adapting the concept for its implementation in the province of P.E.I.**

3.1.2 RECENT AMENDMENTS: HIGHWAY TRAFFIC ACT OF PEI

Recent amendments to the Highway Traffic Act allowing for regulations covering novice drivers within the province and first offenders of impaired driving are viewed by the Advisory Committee as very progressive and responsive to public expectations.

As of February 8, 1988, Prince Edward Island became the only province in Canada to enact regulations which makes the completion of an accredited driver education course mandatory prior to the issuance of an operator's license to new drivers.

The Novice Driver Course is a four-hour program delivered by the Highway Safety Division at various locations across the province. The course is divided into four one hour segments. These include a detailed look at the legal responsibilities of the driver as outlined in the Highway Traffic Act of P.E.I. and the Criminal Code of Canada; night-time and poor visibility driving situations; winter driving and a segment on alcohol and drug education. The novice driver course is a new program and therefore will be evaluated for its effectiveness. The Committee encourages the evaluation process and sees it as an integral part of the overall driver training program.

The Novice Driver Course has been operationalized in the province in advance of a model driver education program which is being promoted through the national impaired driving program sponsored by Health and Welfare Canada. It is understood that the national program will be a multi-unit package addressing the issues of alcohol and drug use and their combination with the operation of a motor vehicle. This national program, when available, may be of some complementary value to the existing provincial program.

On April 1, 1988, the Highway Traffic Act amended Section 247 to make it mandatory for every person who is convicted of an impaired driving offence for the first time to attend a driver information individuals convicted of a second impaired driving offence, they are obliged to attend a driver rehabilitation course of eight hours duration.

Those drivers convicted of a third offence of impaired driving are sent for an addictions assessment by addictions personnel. At this stage, a large proportion of drivers are judged to have alcohol problems and are required to take addictions treatment and follow-up prior to license reinstatement.

It is recognized that the programs provided by the provincial Highway Safety Division are informational and educational and are geared towards imparting knowledge of alcohol use and driving and are therefore prevention oriented in nature. However, the programs are mandatory as outlined in the regulations under the Highway Traffic Act and must be completed prior to license reinstatement. Therefore, the programs are seen as having a direct effect on the quality of new and established drivers on PEI.

Ultimately, all measures that enhance road and vehicle safety in general which are likely to reduce the frequency or severity of traffic accidents deserve support, since such measures have the potential of similarly affecting alcohol-related road accidents.[45]

3.1.3 GENERAL ISSUES: USER FEES

The Highway Safety Division has additional procedural regulations that serve to provide some controls over the convicted impaired driver.

Everyone convicted of impaired driving must submit to an eye test prior to license reinstatement may be a little known fact.

---

[45] Addiction Research Foundation, The Journal, March, 1985, p. 11.

The concept of individuals being responsible for the costs of mandatory driver rehabilitation programs in the form of "user fees" is gaining considerable attention. It is seen as a viable way of offsetting, in part, the extra operational costs of agencies directly involved with the impaired driver.

In June, 1988, the Highway Safety Division increased its license reinstatement fees from $25.00 to $50.00 for those individuals who had their licenses cancelled because of impaired driving convictions. The gathering of an additional $25.00 was seen as a way to help cover extra administrative costs entailed in operating the novice driver course and driver rehabilitation course. License reinstatement fees still remain at $25.00 for those individuals who have not lost their licenses through impaired driving convictions.

This extra fee of $25.00 for license reinstatement still appears low in comparison to the province of Manitoba, for example, where reinstatement fees for impaired drivers combined with mandatory driver rehabilitation programs cost approximately $125.00. The province of Quebec, and its "Alcofrein" program require each participant to pay $50.00 to cover the costs of the program. Participation in the Alcofrein program is made mandatory by a court order.

Addiction services within the province have experienced difficulty in handling the additional load required of them through the assessment and monitoring of impaired drivers on referral from the Highway Safety Division. These agencies are budgeted for treatment programs and impaired drivers like any other citizens in P.E.I. are entitled to health care however the extra costs of assessments and monitoring prior to treatment of impaired drivers has put a strain on existing financial resources. Unlike the Highway Safety Division, addiction programs and facilities do not have a direct method of recovering additional funds like a license reinstatement fee, for example.

The Committee is of the opinion that another potential source of revenue to offset increased expenses may be obtained by adding to the cost of new drivers' licenses. Presently, the $20.00 fee for a new license is thought to be the lowest in the country, therefore increased fees in this area may not be unrealistic.

When one considers that attendance at a driver rehabilitation and/or an addiction assessment program is mandatory after a violation it would appear that the onus should be placed on the user of such programs to cover any costs involved in the reinstatement of driving privileges.

Therefore it is recommended that:

5. **Government examine and review the cost structure of the licensing and licensing reinstatement process within the Highway Safety Division with a view of establishing a more comprehensive "user fee" system, particularly in regard to programs designed for impaired drivers.**

3.2 The Liquor Control Act of P.E.I.

It has been suggested that from a public health perspective, alcohol control policy should take into account those measures which increase or decrease the overall level of consumption of alcohol. The Advisory Committee was addressed on several occasions that a basic solution to the impaired driving problem was to strictly monitor the source and ultimately the access that citizens have to alcohol. Particular concern was raised as to the access that young people have to alcohol. In this light the Liquor Control Act can be examined with regard to its role in the impaired driving issue.

3.2.1 ALCOHOL USE AND YOUNG DRIVERS

TIRF figures indicate that the youngest drivers (aged 16-19) account for 23% of all fatalities and 18% of all injuries yet only comprise 15% of the total number of drivers on the road.[46]

---

[46] Alford, David G., Impaired Driving Facts and Figures, Ottawa, Department of Justice, 1986, p.p. 20-21.

Similarly, P.E.I. 1985 traffic figures relay that this age group was involved in 20% of injury related motor vehicle accidents while comprising only 7.6% of all licensed drivers in the province. These figures easily suggest that alcohol use among young drivers can have devastating effects.

Inexperience with alcohol and its effects, together with inexperience in driving combine to make them a high risk group. According to the Traffic Injury Research Foundation, young drivers are most often sober drivers, but, when they do drink, even at relatively low blood alcohol levels, they have a very high risk of accident involvements.[47]

The question is therefore asked, "How do young people gain access to alcohol and what legislative controls are in place to prevent illegal access?"

To discuss the many ingenious ways young people obtain alcohol is beyond the scope of this report; however, a review of the sections of the Liquor Control Act of P.E.I. pertaining to alcohol use may lead one to ask, "Is the legislation adequate enough to alter the behaviour of the potential young drinking driver?"

The most widely used sections of the Liquor Control Act that are employed with regard to the consumption of alcohol are found in Sections 41, 42 and 50.

Section 41, subsection 1, of the Liquor Control Act provides provisions against the public consumption of alcohol; subsection 2 deals with public drunkenness while subsection 3 prohibits the consumption of alcohol in a motor vehicle. Section 50, subsection 1, of the Liquor Control Act restricts the personal possession of alcohol unless authorized under the Act.

---

[47] T.I.R.F. (Vol. 1, 1985), p. 33.

The minimum penalties for a violation of any of these sections is confiscation of the liquor and a twenty-five dollar fine on the first offence. The ineffectiveness of these penalties is perhaps best summarized in a statement made by a junior high school student. "Anyone can afford $25.00. We get together all of the time to pay each other's fines. Sometimes our parents never know we've been charged." The youth was alluding to the fact that even with a minimum amount of money available to young people, fines can be paid with little or no consequences.

The province of Nova Scotia views the illegal possession and use of alcohol somewhat differently. In that province the minimum fine for such offences is $300.00 which was established a few years ago as an impaired driving related measure. The opinion of some officials in that province is that the high amount of fine for these particular types of offences has helped considerably in keeping alcohol use out of the automobile.

Section 42(1) of the Liquor Control Act provides provisions against the selling and/or supplying of alcohol to any person under the age of nineteen. With fine amounts of not less than $200.00 and not more than $500.00 for a first offence for this type of behaviour, the Committee similarly questions the effectiveness of such sanctions and recognizes the difficulties with enforcement in this area. The overall implications of contributing to underage drinking both from a health issue as well as a highway safety issue have been well documented yet in many ways "the punishment does not fit the crime."

Peace officers within the province of P.E.I. have the authority under Section 60 of the Liquor Control Act to search without a warrant any vehicle or boat if they believe liquor is being illegally kept in the vehicle or boat. If any liquor is found, Section 62(1) allows for the seizure of not only the liquor but also the means of conveyance. Though seizure of the automobile, boat or other means of conveyance is rarely employed, the public may be unaware that the Act does allow for far reaching consequences. In these situations enforcement officers usually lay charges under Section 50(1) of the Liquor Control Act for illegal possession.

In summation, it seems reasonable that any attempt to separate the combined use of alcohol and the operation of a motor vehicle, particularly when it involves young people should be explored. Provincial legislation amendments to the Liquor Control Act regarding the adjustments of the monetary levels of fines may go a long way in helping to establish proper social attitudes with this age group.

Therefore, it is recommended that:

6. **Government examine the fine structure under the Liquor Control Act of P.E.I. with a view to substantially increasing fines particularly in areas pertaining to the illegal use and possession of alcohol.**

IV

THE RESPONSE: INTERVENTION STRATEGIES

"**Almost everyone agrees that government should act to reduce the amount of impaired driving. The problem is how to do it.**"

- Gilbert, 1981

1.0 INTRODUCTION

The question raised by the above quotation can perhaps be addressed by stating that for many years governments strove to show the populace that it possessed the solution to many of our social ills. As a consequence, more often than not, government was seen as failing in its endeavours. As the failures increased, the pressure to find solutions to social problems like impaired driving also increased.

The problem of how to do it intensified and this can be attributed in part to the problem solving process itself. The alcohol/highway safety community, faced with this problem and the mounting public pressure demanding its solution consists of two distinct approaches, distinguished according to function: research and countermeasures. The research approach is defined as those individuals who conduct the research necessary to document the existence of the problem whereas the countermeasures community is defined as those charged with the responsibility for implementing responses to the problem.[48]

These two approaches would appear to be compatible with one group documenting the magnitude of the problem while the other group documents the methods employed to deal with it. Unfortunately, there is little thought given as to how one moves from recognition of the problem to what should be done to correct it.

As a consequence, coordination between problem identification and problem solution has for many years been non-existent. Governments, in their haste to meet the challenge of public demands for a "quick" solution to impaired driving, have overlooked evaluative research and have expected the countermeasure approach to come up with some answers.

With an emphasis solely on confirming the continued existence of the impaired driving problem combined with an absence of information on what may work, the resulting trial and error process has created a spawning ground for a plethora of quick solutions. (See Appendix 5 for Alcohol Countermeasures.)

---

[48] TIRF, Volume 4, 1985, p.p. 123-134.

The Advisory Committee is of the opinion that we need not "reinvent the wheel" on Prince Edward Island and wrestle with developing unique solutions to the problem of impaired driving. Presently, several provinces in Canada have developed provincially coordinated strategics employing combinations of many countermeasures in attempts to deal with the complex issue of impaired driving. British Columbia's Counter Attack, Ontario's Countermeasures, New Brunswick's Team to Eliminate Drinking and Driving (T.E.D.D.) and Nova Scotia's Premier's Task Force on Drinking and Driving are examples of province-wide, multifaceted prevention and enforcement programs aimed at eliminating drinking and driving in their jurisdictions. The strategies can serve as templates for provinces like Prince Edward Island which are in the initial stages of program development.

In summary, the ultimate solution to the impaired driving problem need not rest solely in the hands of government. Presently the emphasis is for community based programming to take the responsibility. At best government agencies should be viewed as catalysts, developing policy directions, providing leadership and funding, and then letting the community develop programs to deal with impaired driving that may be unique to their specific areas.

2.0 PREVENTION AND INTERVENTION STRATEGIES

Prevention must be a component part of all countermeasure and intervention efforts against impaired driving. It can be argued, for example, that an increase in enforcement practices will prevent others from driving impaired. Similarly, specific treatment programs geared toward the problem drinker are ultimately preventive in nature.

Prevention directs itself towards a future orientation. It implies an acquisition of knowledge that can be internalized and therefore utilized in the personal decision making process of everyday life. In short, all intervention strategies should be viewed as component parts of an ongoing effort to change personal and social attitudes.

Intervention strategies related to impaired driving generally fall into distinct categories: legislation, enforcement/driver licensing, education and strategies related to alcohol use. A consideration of the issues surrounding these strategies can help bring to light some of the problems associated with them. The above strategies will be presented individually with the exception of "legislation" and "driver licensing and education" which have been previously discussed in this report.

3.0 ENFORCEMENT AND PUBLIC AWARENESS PROGRAMS

The dependence upon the "legal approach" to correct and control human behaviour when all else fails is the popular "fail-safe" method of all democratic societies. As was demonstrated in the Legislation section of this report, the legal approach has been aptly applied in attempts to prevent impaired driving and outline the consequences. The key, however, to effective enforcement rests not only with efficient application of the law but also that the public is aware the law is being applied successfully on a continual basis.

3.1 The Deterrent Effect

Recent legislation has employed the concept of deterrence and its main premise that a behaviour can be suppressed by threat of punishment. In other words, the greater the perceived risk of detection, with severe penalties and the quicker the punishment imposed, the greater the deterrent effect of the threat.

Prince Edward Island has seen a dramatic increase in the use of jail sentences for first offenders regarding impaired driving. Indeed, in 1986 and 1987, approximately 60 percent of all adult inmates under sentence in provincial correctional facilities were serving sentences for driving while impaired infractions. This figure is double the figure of 30 percent in 1985. At considerable financial and emotional expense, it appears the provincial court system is doing its part in applying the classical legal approach.

The application of severe penalties is only part of the solution. H. Laurence Ross, for example, concluded that the new impaired driving laws at best cause small, short-lived reductions in impaired driving. He continues by stating that severe penalties alone do not seem to deter people from driving after drinking, especially when the risk of arrest is low.[49] Indeed, Canadian estimates of the likelihood of being arrested range between 1 in 500 and 1 in 2000 impaired driving trips.[50] However one factor - increased certainty or risk of detection and punishment is critical for deterring people from driving while impaired.[51] Therefore, as long as the perceived risk of detection remains relatively low, most impaired drivers will not be deterred.

Jonah and Wilson (1986) would concur. In their review of driving while impaired enforcement practices, they concluded that the greatest short-term impact on impaired driving problems can be achieved by improved efficiency of enforcement efforts.[52]

This raises an obvious question. Why not increase police enforcement?

Enforcement officials have stated that a major constraint to increasing enforcement of driving while impaired laws is the high cost. Increased person-hours caused by time consuming arrest and charging procedures and time spent in court by officers effectively use up limited budgets. For example, it is estimated that it takes approximately two and a half to three hours for a police officer to arrest, breath test and charge an impaired driver. Thus impaired driving charges can easily remove an officer from patrol for a large proportion of his/her shift, creating a potential surveillance shortage in other enforcement matters.

The cost factor is particularly significant with the municipal police departments and detachments on P.E.I. They experience difficulties in maintaining consistent "stop-check" programs, for example, due to budget limitations and/or manpower shortages. As well, figures from the P.E.I.

---

[49] TIRF, Crossroads, 1(5) (1988) p.p. 2-3.

[50] Jonah, Brian and Wilson, Jean. Impaired Drivers Who Have Never Been Caught... SAE Technical Paper Series, No. 860195, Warrendale, Penn. (1986) p.84.

[51] TIRF, op.cit., p.p. 2-3.

[52] Jonah, Brian and Wilson, Jean. Improving the Effectiveness of Drinking-Driving Enforcement through Increased Efficiency, Accident Analysis & Preview, 15(6), p.p. 478-479.

Study of Impaired Drivers indicate an added strain for the municipal detachments of Charlottetown and Summerside who are already coping with the above-noted limitations. Over the five-year period (1983-1987) well over half of their impaired driving charges involved drivers living outside their jurisdiction.[53] It would appear, therefore, the target population of the two main municipal police forces on P.E.I. increases substantially regarding drinking drivers.

The above problems have been lessened somewhat with the deployment of joint "check-stop" endeavours between neighbouring police detachments. The joint "check-stop" is seen by the Committee as a method to compensate for manpower shortages and is also an effective method of demonstrating a cooperative approach in dealing with the impaired driving dilemma.

3.2 The Swedish Experience: Random Breathtesting

A second and perhaps greater barrier to effective law enforcement are the legal constraints.

It is beyond the scope of the Advisory Committee to argue the merits of the "checks and balances" of the Charter of Rights and Freedoms. However, an insight into the pre- and post-1974 Swedish Experience helps to shed light on the effects of legal constraints on the police's ability to detect impaired drivers.

Research on the effectiveness of spot roadblocks has confirmed that the most effective way police have of spotting impaired drivers is through regular patrols and collision investigations. Spot checks were given as the least frequent occasion for stopping an impaired driver. One Swedish study used simulated roadblocks to check the reliability of police observations. It was found that the majority of drivers with blood alcohol concentrations between 50 and 150 percent went through undetected by police - and almost 50 percent (50%) of drivers with BAC's over 150 mg% aroused no suspicion of impairment. In short, Swedish police, at that time, needed a reasonable suspicion or similar to our present reasonable and probably grounds that is required by our police prior to demanding a breath test. If suspicion was not present because drivers were able to "pull themselves together" in the threat of arrest, the rate of roadside "misses" was high.[54]

---

[53] Durie, H., op.cit., p.25.

The Island research study relayed that from 1983 to 1987 only three percent of all impaired driving charges resulted from random roadside checks, whereas routine road patrol was most effective accounting for approximately seventy percent of all charges.[55]

Regardless of the relatively low detection rate, the stop check program is extremely important in heightening public awareness and the perception that the risk of detection is high. This point is expanded upon in the next section of this chapter.

In 1974, Sweden became the first country to allow police to breath test drivers "randomly" at roadchecks. Swedish police can now demand a breath test without needing to "suspect" a drinking-driving violation. Follow-up research supports the practice of random breath testing as a method of improving enforcement effectiveness.

The elimination of the "reasonable and probable grounds" clause may run in direct contradiction to the Canadian Charter of Rights and Freedoms. By extension the spot check or roadblock is also a contentious issue. The Committee is reminded of the attempt in 1987 by the Highway Safety Division to conduct a night-time driver survey in conjunction with Transport Canada hoping to gain basic driver information on drinking and driving habits but having to reconsider it in the face of media opposition. As recently as April, 1988, an editorial appeared in one of the local newspapers criticizing Students Against Driving Drunk (SADD) participation in a series of Island-wide RCMP roadside checkstops. However, regardless of the opposition it is interesting to note that Jonah and Wilson recommend that random breath testing be considered among possible legislative changes to enhance enforcement effectiveness.[56]

---

54. Crossroads, op.cit., p.2.

55. Durie, H., op.cit., p. 15.

56. Jonah and Wilson, op.cit., p. 470.

The need for increased enforcement measures is also indicated in a statement made by Justice Alex B. Campbell, Trial Division, Supreme Court of P.E.I., in a recent court decision:

> "In my opinion, the continuing frequency of deaths upon our highways by impaired persons poses a challenge to the criminal justice system - a challenge that unless enforcement measures are increased, then our highways will not be safe for public use."[57]

The Supreme Court of Canada has also established a benchmark against which the public may measure the seriousness and the magnitude of the problem of impaired driving. In two recent decisions considering the appropriateness of random check-stops and secondly of refusal charges to the Charter of Rights and Freedoms regarding the "presumption of innocence," the court recognized the infringement of human rights but ruled in favour of the law as it now stands simply because of the greater harm created by the impaired driver on our highways.

Therefore, the Committee recommends that:

7. **Enforcement agencies continue to utilize the "stop-check" program on a regular basis within the province as a prevention, public awareness (including media attention) and detection technique, and to coordinate with other enforcement agencies in a province-wide program whenever possible.**

8. **The Minister of Justice and Attorney General approach his federal counterpart with the purpose of reviewing and strengthening the present legislative and enforcement procedures provided for in the Criminal Code as they relate to the detection and prosecution of the impaired driver.**

---

[57] Lynch, R.V. (1985). 52 Nfld. and P.E.I.R. 32; 153 A.P.R. 32(P.E.I.S.C.) p. 34.

3.3 The Effectiveness of Public Awareness

In the absence of an automatic increase in police enforcement effectiveness due to the realistic concerns raised in the previous section,a complementary method for raising the risk of detection of driving while impaired offences is the use of public information.

William Mercer suggests that the "critical and essential element for police roadcheck activity to be successful in reducing alcohol-related accidents is the widespread media coverage of same, so that the public is aware that this activity is occurring." There is evidence to suggest that public awareness campaigns in the absence of concentrated enforcement policies have little, if any, effect on alcohol-related accidents. Therefore, there is a reciprocal relationship between successful enforcement campaigns and public awareness - one should not exist without the other.[58]

How an awareness campaign should be presented certainly needs further study. However, it is suspected that there is a large degree of flexibility that can be utilized and perhaps public awareness campaigns can be geared toward and patterned after individual community needs.

A common concern heard by the committee from various individuals and groups across the province was the lack of basic local information on the issues of impaired driving. For many, the issue of impaired driving is seen as "somebody else's problem." Information on the pertinent issues of the subject as they relate directly to the province, and indeed specific communities, is a necessary component of any public awareness campaign.

To this end, the Community Legal Information Association of P.E.I., through funding received from Health and Welfare Canada's Community Action Program on Impaired Driving, is producing a pamphlet containing legal information on impaired driving relevant to Prince Edward Island.

---

[58] Mercer, William. Counter Attack Research Papers (1985), Ministry of Attorney General, B.C. (1986), p. 95.

Mann House, located in Charlottetown, has also utilized the Health and Welfare fund to provide the public with information on impaired driving. Similarly, Students Against Driving Drunk (S.A.D.D.) have been very visible with their efforts in promoting public awareness.

A goal for an effective public awareness campaign against impaired driving is the utilization of the media in a "positive" way to inform the public of the personal, social and legal dangers that can result from participating in this type of activity.

William Mercer, in a follow-up study of newspaper articles (content analysis), states that consistency is an important element in heightening public awareness of driving while impaired (D.W.I.) issues. There is little need for the large headline banner article but that the small article frequently placed in newspapers and magazine publications was found to be most effective.[59]

This type of approach has been used to some extent within the province to date with the placing of notes in the classified ads of trade magazines, church bulletins and newspapers and on the plastic bags distributed by the Liquor Control Commission of P.E.I. In all, these appear to be low cost methods of relaying an important message while at the same time complementing existing enforcement practices. The Committee recognizes these efforts in keeping the issue of impaired driving before the public.

In summation, it appears that the effectiveness of legislation prohibiting impaired driving is heavily dependent on the perceptions of drivers of the likelihood of being apprehended. These perceptions, in turn, are influenced by the actual degree of enforcement and expectation of apprehension generated by complementary public information programs.[60]

---

[59] Addiction Research Foundation, The Journal, 15(7), July, 1986, p. 10.

[60] Addiction Research Foundation, The Journal, 14(3), March, 1985, p. 12.

In this regard, the Committee recommends that:

9. **A public awareness program against impaired driving be a central part of any countermeasures program developed in the province which should include the following:**

   a) **An information package developed by the Highway Safety Division to be distributed to motorists at license and motor vehicle registration renewal times.**

   b) **A public address announcement which can be played at each ferry terminal prior to boarding or during the crossing warning motorists of dangers of impaired driving.**

   c) **The distribution of "point of sale" material (shopping bags, etc) after each purchase at liquor control outlets across the province.**

   d) **Enforcement agencies utilize a media campaign in conjunction with the "Stop-Check" program.**

   e) **The Department of Justice and Attorney General of P.E.I. be responsible for developing an annual "media workshop on impaired driving" for individuals, organizations, and media representatives involved in the dissemination of public information.**

4.0 TREATMENT AND EDUCATIONAL PROGRAMS

The range of addictions services within the three counties of Prince Edward Island allows for high quality treatment programs to those individuals having difficulties with alcohol and/or other drugs.

In recent years these services have been strained to their limits in attempts to cope with the demands placed upon them to provide additional services for an increasing wide variety of social problems. The impaired driving dilemma is one such social problem that has created a natural challenge for existing addiction agencies.

In that 25 to 30 percent (Donovan, 1983, suggests as high as 80 percent) of convicted impaired drivers are alcohol dependent,[61] treatment services are essential because a driving while impaired conviction can act as a "fish net" mechanism thereby directing an individual to enter treatment. With local P.E.I. experiences indicating percentages of incidents of alcoholism increase with previous convictions, the use of assessment and treatment programs is further supported.

For many years the DWI Phoenix Program, implemented in Phoenix, Arizona, in 1966, served as the benchmark for Canadian programs designed to rehabilitate and educate the convicted impaired driver. These early programs emphasized education more than treatment grounded on the assumption that participants would make a rational decision not to drink and drive based on the knowledge of the consequences imparted to them by the program. The driver's degree of alcoholism was rarely addressed.

Presently driver rehabilitation programs use a multiple strategy approach but generally emphasize identifying the alcohol dependent offender, and having the alcohol problem dealt with first, prior to reissuing driving privileges. A prominent example of this type of strategy is the comprehensive IMPACT program initiated in Alberta in 1986. This is a week-end long session of approximately 28 hours consisting of a series of group discussion, films, information sharing and psychometric testing. The IMPACT program is mandatory prior to license reinstatement for all those convicted of impaired driving on two or more occasions within a five-year period.[62]

The rationale for using the treatment module for convicted impaired drivers is based on the following:[63]

---

[61] TIRF (Vol. 1, 1985) p. 40. See also D. Donovan, Drinking Behaviour, Personality Factors and High Risk Driving, Journal of Studies on Alcohol 44(3), 1983.

[62] A.A.D.A.C., Impact: Program Development Studies, Edmonton, Alberta (1988), p.p. 13-27.

[63] Government of Canada, Perspectives on the Alcohol/Traffic Safety Problem in Canada (No Date), p. 35.

- 25-30 percent (or higher) of all convicted impaired drivers are thought to be alcohol dependent;

- among DWI repeaters, the probability of alcohol dependency is significantly greater. This is further accentuated by the fact that in PEI during 1986 approximately 45 percent of those convicted in that year had previously been convicted of a DWI offence at some time in their driving careers;

- without treatment, it is highly probable that the alcohol dependent offender will continue to drive while impaired and to be subject to a high risk of accident involvement; and

- adequate screening of convicted impaired drivers constitutes an excellent means of detecting persons who may be in the earliest and therefore the most treatable stages of addiction.

In this regard, a comprehensive treatment component is viewed as an essential part of a complete countermeasures program.

The Advisory Committee is of the opinion that addictions services on P.E.I. cannot take on the additional responsibilities imposed on them by the mandatory requirements of the driver license re-issuance programs of the Highway Safety Division without first considering the extra burden these requirements place on existing addiction staff. Officials from the Queens and Prince County Addiction Services relay that 202 persons were referred from the Highway Safety Division during the fiscal year 1986-1987 to participate in their rehabilitation programs.

It is noted that Queens County Addiction Services provides impaired driver outpatient rehabilitation programs for Kings County Addiction Services. It is suggested in this regard, that Kings County could have its own outpatient treatment program thus eliminating the need for its clients to travel to Charlottetown for this service.

The idea of an extra staff position to act as a liaison between the addiction services and the Highway Safety Division to coordinate the extra referrals is not new.

The activities of the proposed liaison person would include assessments of Highway Safety Division referrals; if alcoholism is diagnosed referral of the person to a treatment program and subsequently aftercare programs; monitoring the progress of the individual; providing documentation to the Highway Safety Division in such cases; and the compilation of yearly statistics regarding the number of referrals and an analysis of overall program effectiveness. This function should also serve as a liaison with Justice agencies.

Since 1985 when it became mandatory for every impaired driver with three or more convictions to be assessed by local addiction services, the referral process has become an integral part of the motor vehicle licensing control process yet repeated requests by addiction officials for additional staffing positions have not been met. The Advisory Committee recognizes the value of this service both to the Highway Safety Division and local addiction services.

Therefore, it is recommended that:

10. **The provincial government create a permanent full-time position to serve as a liaison between the Highway Safety Division and Addiction Services on P.E.I. to coordinate the mandatory referrals resulting from the motor vehicle re-licensing process and to serve a liaison function with Justice agencies.**

4.1 The Role of Corrections in the Treatment Process

Correctional intervention has a significant role to play in treating the impaired driver in addition to its traditional role of punishment and deterrence. This is particularly applicable to the province of P.E.I. where the numbers of impaired drivers sentenced to adult correctional facilities has increased dramatically.

In 1986 and 1987, approximately sixty (60) percent of all sentenced adult inmates in P.E.I. jails were impaired drivers. 1985 percentages were one half the 1986 totals at twenty-nine (29) percent. 1984 and 1983 figures were twenty-seven (27) and twenty-three (23) percent respectively.[64]

---

[64] Canadian Centre of Justice Statistics. Table 10, Percentage of Adult Inmate Population: Impaired Drivers Sentenced Admissions to Provincial Custody: 1983-1987, P.V.B. Catalogue 85-211, 1988, p. 112.

It is now recognized that legal sanctions have an important positive impact on driving behaviour which might be increased by a rehabilitation program but which might not be achieved by the program alone. This implies that the rehabilitation approach should be seen as a supplementary strategy and not as a replacement for legal sanctions.[65]

The long-standing co-operative relationship between addiction services across P.E.I. and the provincial correctional system has allowed for convicted inmates to be screened at the correctional centre prior to possible treatment. The punishment aspect of sentence is maintained while at the same time providing the necessary element of potential curative treatment.

The general consensus among justice and addictions officials appears to be that the method of releasing inmates under supervision through temporary absence and day parole programs to a treatment centre from imprisonment works best. Prince Edward Island has not yet utilized Section 239(5) of the Criminal Code allowing for the court to dispose of an individual by way of a conditional discharge if it can be medically proven that the individual has a long-standing problem with alcohol. In this section initial legal sanctions are put aside to make room for the treatment process.

There has been some suggestion that probation orders should be employed not as an alternative but rather as an extension to the overall sanctions imposed. This would serve to provide correctional supervision while the offender is in the community and may ensure his/her participation in the necessary treatment follow-up component of the addictions program and license reinstatement process. Crown prosecutors within the Province are of the opinion that this approach is superior to any use of Section 239(5) of the Criminal Code.

---

[65] Salzberg, P. and Klingberg, C., The Effectiveness of Deferred Prosecution for D.W.I., Journal of Studies on Alcohol, 44(2) (1983) p.p. 299-306.

4.1.1 PROVINCIAL CORRECTIONAL CENTRE: PROGRAM EXPANSION

The dramatic increase of impaired drivers sentenced to periods of incarceration has not been without its problems.

The sheer volume of convicted impaired drivers in the adult system would seem to indicate that existing programs within the adult correctional system should expand their mandate and thus further complement the programs within addiction services.

In November, 1986, a coordinator was appointed by the Department of Justice and Attorney General to oversee the operation of the temporary release of selected inmates to addictions agencies in the province. The coordinator meets with all inmates at the Provincial Correctional Centre to assess and evaluate if they wish or need addictions treatment. This program serves to isolate any drug/alcohol problems that may be present within the inmate population. This initiative provides for improved supervision of these individuals, thus increasing the chances for success.

To further meet the demands placed upon the Provincial Correctional Centre because of the large impaired driver population, the In-house Addictions Education Program was established in August, 1987. This 15-hour mandatory program for all inmates incarcerated for impaired driving offences consists of information sharing and group discussion. As with the Temporary Absence Program, the in-house educational program serves to prepare the inmate for supervised release to a community addiction program. The in-house program has been extended to all inmates particularly where there is a history of addictions.

The Provincial Correctional Centre Program Review initiated by the Minister of Justice and Attorney General was completed in June, 1988. This review emphasized the need for further program expansion particularly in the area of education and awareness programs for inmates related to drug and alcohol addiction.[66] Thus the program review adds further support for the implementation of additional programs within the correctional system oriented toward the impaired driving offender.

4.2 The Effectiveness of Treatment/Education

There is no clear evidence to support or negate the overall effectiveness of driver rehabilitation and treatment programs with regard to reducing the incidence of impaired driving in the general population. The obvious limitation of these programs is that they deal exclusively with convicted impaired drivers which comprise only a small proportion of the total "drinking and driving" population. Nevertheless, results of evaluation studies of efforts to rehabilitate impaired drivers suggest that education and treatment programs have beneficial effects on subsequent driving behaviour and general alcohol use. For example, in a study of the effectiveness of treatment programs offered to impaired drivers by the Alcohol and Drug Problems Institute, Charlottetown, it was found that 39.2 percent of 74 multiple conviction impaired drivers were able to maintain total abstinence since undergoing treatment between 1985 and 1988.[67]

Presently there is a growing trend to attack the problem of the drinking driver by preventive means. In this regard school-based prevention programs for drinking and driving appear to hold significant promise for reducing alcohol involvement in the road safety problem over both the short and long term.[68]

---

[66] Dodd, J.D., Provincial Correctional Centre Program Review, P.E.I. Department of Justice, June, 1988, p. viii.

[67] Killorn, Dr. L., Impaired Driver Program Survey, Alcohol and Drug Problems Institute, Charlottetown, P.E.I., 1988, p. 7.

[68] Mann, R.E., et al, School Based Programmes for the Prevention of Drinking and Driving: Issues and Results, Accident Analysis and Preview, 18(4), 1986, p. 326.

Mann, among others, is of the opinion that school-based alcohol and traffic safety education programs appear to be the result of the converging influence of three factors:

1) the movement for alcohol and drug education in schools;

2) the movement for traffic safety education; and

3) the growing awareness of drinking and driving as a major public health problem, particularly among youth.

The PEI Advisory Committee heard on several occasions the need for the return of driver education in schools across the province. Suggestions that alcohol education be taught in the elementary schools as part of the regular curriculum were also emphasized.

Presently on P.E.I. the Highway Traffic Act requires that all individuals desiring a driver's license must complete a recognized driver training program or attend the four-hour Novice Driver Course available through the Highway Safety Division. The Novice Driver Course allows for one hour of alcohol and drug awareness information.

Additionally, the province is represented on a national driver education working group set up through the Health and Welfare impaired driving initiative.

Earlier in this report the argument was made that increased per capita consumption of alcohol can be easily linked with the problematic use of alcohol including impaired driving. A 1981 study by E. Vingilis et al of 1,484 Ontario Grade 11 and Grade 13 students point to significant relationships among drinking and driving, age, sex, grade average and scores on the Alcohol Problem Scale. Students who reported problems with alcohol drove more, were involved in more collisions, were more likely to have drinking-driving convictions and to engage in drinking-driving episodes.[69]

---

[69] Vingilis, Evelyn R., et al, Drinking-Driving Behaviour of Ontario High School Students, Canadian Journal of Public Health, Vol. 77 (May/June, 1986), p.p. 196-200.

Obviously early education on the potential dangers of alcohol use and abuse is essential if any attitudinal change is to be expected.

To reduce drinking and driving is to change social attitudes, norms and values. Social change is never accepted with complacency. Change, however, is made easier if the youth of our community believe it is necessary. In this regard, Prince Edward Island is fortunate. The youth of our province have responded very positively to the challenge of reducing the incidents of impaired driving and appear truly committed to the eradication of the problem. They are prepared to attack the status quo, to co[illegible]nt established attitudes, and ultimately provide leadership in this area. They demand and in many ways deserve community support. As always our future lies with them. In this regard, any comprehensive intervention strategy against impaired driving must address the needs of youth in Prince Edward Island.

For the past several years the youth of P.E.I. have been leaders in the fight against impaired driving. Presently Students Against Driving Drunk (S.A.D.D.) groups have been organized in all Island senior high schools and Safe Grad is practiced regularly each June in many of these institutions as well. The Student Union office of the University of Prince Edward Island has spent the summer of 1988 developing an alcohol awareness program which was implemented during Freshman Week in September. The efforts of Island young people have had a positive effect. The Island study of impaired driving charges during the five-year period 1983-1987 notes:

> "Perhaps the most notable finding of this study was that drivers aged 16 to 19 were the only age group that decreased in proportion among those charged with an impaired driving offence. The decrease was small, but is a sound indication that education and prevention programs targeted at young drivers, and particularly the work of young people themselves, through Students Against Driving Drunk, are having an effect."[70]

---

[70] Durie, H., Impaired Driving on Prince Edward Island, P.E.I. Department of Justice, August, 1988, p. 42.

As role models, youth command support. There is plenty that can be learned from this dynamic segment of P.E.I. society. Therefore, anything that can be done to enhance co-ordination and communication between the youth of P.E.I. and their adult counterparts must be a priority at any cost. Alcohol and drug education should be made available to children at the earliest possible ages.

To this end, it is recommended that:

11. A liaison function should be established and/or supported by government to coordinate community-based youth programs and activities (e.g. S.A.D.D./Safe-Grad) across the province.

It is further recommended that:

12. An "alcohol-drug" component become part of the proposed family life curriculum within the educational system.

5.0 CONSIDERATIONS RELATED TO GENERAL ALCOHOL USE

Though the mandate of the Advisory Committee directs itself to the issue of impaired driving it is difficult not to recognize the broad issue of the relationship between social attitudes, social permissiveness, alcohol consumption rates and the problem of impaired driving. An in-depth discussion on this topic by the Committee is beyond its scope at this time; however, an examination of the role of alcohol advertising and alcohol retailing/serving may lend itself to insights into some public attitudes on alcohol consumption which are relevant to any examination of impaired driving.

5.1 Alcohol Advertising

The ongoing debate among health care professionals, policy makers and representatives from the alcohol beverage industry regarding the effects of alcohol advertising and consumption rates is far from conclusive.

As expected, the alcohol beverage industry denies categorically that advertising affects aggregate alcohol consumption, admitting only that the main thrust of their advertising is to promote a certain brand name, not the normalization of alcohol use. Section 18 of the Broadcast Act which is administered by the Canadian Radio-Television and Telecommunications Commission (CRTC) prohibits distillers access to broadcast advertising and stipulates that any brewers' advertising cannot be designed to promote "general use" of their products.

However, a 1984 study of the trade journals of the brewing and wine industries in the United States suggests that "normalization" of their products is an explicit objective. The market share of the total beverage market is their goal. They consider any liquid - soft drinks, tea, coffee, juices, and milk - as their competition. This is clearly lifestyle advertising. It therefore dismissed the relevance of the question of whether advertising increases alcohol consumption but rather leads one to ask whether it has an impact on encouraging inappropriate drinking patterns and styles? Most argue that the target group of such advertising is young people and with little significant long-term research done on this population at risk, many serious questions are left to be answered.[71]

Alcohol advertising is prohibited within the province of P.E.I. However, with widespread use of cable television and similar modes of media communication throughout the province, the government stand against alcohol advertising is constantly challenged.

The province of Saskatchewan has recognized the reality of the present situation regarding alcohol advertising. In 1982, the province of Saskatchewan established regulations allowing for alcohol advertising with the stipulation that fifteen percent of all alcohol advertising be of an educational nature. Thus the responsibility is left with the broadcaster to monitor the content and frequency of alcohol advertising in order to fill the requirements of the regulations as monitored by the Canadian Radio-Television and Telecommunications Commission.

---

[71] Addiction Research Foundation, A Programmer's Guide to Community-Based Countermeasures Against Drinking and Driving, Toronto, 1985, p.p. 44-45.

While the results of studies of the impact of advertising are at best equivocal, there is little information available to answer the crucial long-term question of what is the effect of growing up in a world where frequent exposure to alcohol advertising is inescapable. Therefore, it would seem logical that any long-term intervention strategy within the Province of P.E.I. contain an organized educational component promoting alcohol awareness and ultimately the separation of drinking from driving at any time. These awareness/educational programs must operate continuously on a twelve months basis and not just during the usual festive seasons as has traditionally been the case.

The Health and Welfare Canada "Play It Smart" campaign on impaired driving promoting a positive lifestyle without the use of alcohol and drugs is readily available and its complementary use with any provincial awareness program is strongly suggested.

Regardless of any existing literature on alcohol use and the operation of a motor vehicle there is a definite need for "localized" information that can be readily available in "pamphlet" form. This material can be handed out frequently by enforcement agencies, enclosed in electricity and telephone bills and distributed to the youth through the school system and made available in drinking and other establishments such as waiting areas of medical facilities, offices, etc.

In summation, the government of Prince Edward Island must take an active role in informing the public of the responsibilities and consequences of alcohol use. Where better to get at the consumer, for example, than to have the P.E.I. Liquor Control Commission deliver a positive message regarding responsible alcohol use by employing simple displays and distributing point of sale items?

Therefore, it is recommended that:

13. **The government of Prince Edward Island, through the Liquor Control Commission, take a lead role in the sponsorship and coordination of educational programs pertaining to the responsible use of alcohol.**

5.2 Alcohol Retailing: Server/Intervention on P.E.I.

It can be argued that the environment and physical layout of drinking establishments where alcoholic beverages are sold influence the consumption of alcohol. Therefore, proprietors and employees within these establishments play an integral role in the amounts of alcohol their patrons consume and ultimately whether they use their motor vehicles after leaving the premises.

Figures supplied by the P.E.I. Liquor Control Commission show that approximately twenty (20) percent of all liquor purchased on P.E.I. is through 273 licensed establishments, thus making this group a prime target for intervention programs related to impaired driving. (See Figure 9)

Figure 9. P.E.I. Liquor Control Commission

PERCENTAGE OF ALCOHOL BEVERAGES SOLD BY LICENSEES AS COMPARED TO TOTAL SALES

Year	Percentage of Total
86-87	20.4%
85-86	20.4%
84-85	20.8%
83-84	20.9%
82-83	20.3%
81-82	19.0%

* Licenses in Effect as of March 31, 1986:

Military Canteen	26
Club	70
Dining Room	121
Lounge	56
TOTAL	273

Recent Canadian civil case law has indicated that servers and in some cases employees can be successfully sued for damages when found negligent, that is, when they knew or should have known a patron was dangerously intoxicated.

Thus, the imposition of civil liability on persons who provide alcohol to be responsible for damages incurred as a result of an impaired driving situation has become an important mechanism for the prevention of impaired driving and the problems associated with intoxication by encouraging the development of comprehensive server intervention programs.[72]

The importance of responsible retailing and serving of alcohol is perhaps captured in the following quote.

"Part of the solution lies with the introduction of server intervention programs designed to train management and staff of licensed premises and events to keep patrons from becoming intoxicated and from driving while impaired. In addition, differential pricing based on alcohol content, product diversification to reduce dependence on alcohol sales, prohibition of happy hours and advertising controls are important features of an approach to minimizing the risks presented by licensed establishments."[73]

The Advisory Committee had the issue of server intervention brought before it on many occasions. Opinion was strong that a substantial increase in the awareness of both proprietors and employees of drinking establishments and of the public in general of the civil liability of the former for damage caused to or by impaired persons should occur. The Tourism Industry Association of P.E.I. (TIAPEI), in conjunction with the Food and Restaurant Association also fully supported and recognized the need for a uniform delivery of a server training program within its industry on Prince Edward Island. Indeed, T.I.A.P.E.I. has submitted a proposal for funding from Health and Welfare Canada to pursue the feasibility of establishing a provincial intervention program. As well, the province is represented on a national working group developing a general server training program by a representative from this Association.

---

[72] Single, Eric, Towards a National Network for Server Intervention Programming, Remarks made to National Steering Committee on Impaired Driving, Ottawa (March 23, 1988).

[73] D.P.A. Group Inc., Final Report: Impaired Driving Qualitative Research Project, for Health and Welfare Canada (April, 1988), Section II, p. 18.

The question of how to implement a comprehensive server intervention program is indeed challenging. It is beyond the Committee at this time to suggest how such a task can be accomplished; however, some areas deserve consideration.

Firstly, it is the opinion of the Committee that the requirement for a server intervention program must be provided for in liquor control/licensing legislation in the province.

The onus must be on the individual server to obtain a waiter's licence. This licensing procedure will require that a server training program be completed prior to licensing. As well, a method to extend server training to those already employed as waiters or servers in the industry will have to be considered and developed.

Secondly, the proprietors of the licensed establishments must take responsibility to ensure that all employees have a current waiter's license prior to obtaining employment with the licensed establishment. Therefore, it will be mandatory to have all employees in possession of a waiter's license in order to maintain a liquor licence.

This will undoubtedly place further demands on an already busy liquor license inspection process. The Committee is of the opinion that enforcement agencies should continue the practice of following up the source of alcohol, if alcohol is present in highway accidents. Additionally, this information, as well as incidents involving police at licensed establishments, should be passed on to the P.E.I. Liquor Control Commission to provide the Commission with information on potential trouble spots. This cooperative effort will help the liquor inspection process and be a valuable consideration when liquor licenses are to be reviewed or renewed.

Thirdly, it must be recognized that with an industry characterized by a high employee turnover rate due to its seasonal nature, "temporary exemptions" may have to be included in any legislation being considered.

One alternative to this problem would be the requirement of one fully licensed alcohol server overseeing the work of one or two temporary employees.

In summation, the Committee recognizes that there are problems with the implementation of server training as part of the licensing process however the importance of establishing responsible alcohol serving and retailing must be maintained.

Therefore, it is recommended that:

14. **The P.E.I. Liquor Control Act be amended to include the requirement of server intervention training by all individuals prior to the receipt of a "waiter's license," and that those serving alcohol have a server training program as a minimum requirement for employment in any licensed establishment with this being a condition of the issuance of the standard liquor license.**

It is also recommended that:

15. **The provincial government support the tourism and the food and restaurant industry in the development of a comprehensive, standard provincial server intervention program.**

16. **The enforcement agencies in P.E.I. share with the Liquor Control Commission information that comes to their attention arising from complaints or incidents in or around licensed premises involving the serving of alcohol.**

The implementation of a provincial server intervention program must be viewed as a long-term goal of a potential countermeasures program. However, there are a number of programs that if operated directly from the drinking establishments will have an immediate effect on the reduction of drinking drivers on the road. In this regard, concerns were raised about two programs utilized by some alcohol retailers that, if altered or changed, could have a positive influence on how the public addresses the issue of impaired driving.

It was brought to the attention of the Advisory Committee that the P.E.I. Liquor Control Act indirectly encourages the use of the "Happy Hour" in licensed establishments. Though many operators/proprietors of drinking establishments on P.E.I. no longer utilize this concept to draw patrons, its continued sporadic use is seen as counter-productive to any attempts to instill proper attitudes toward responsible alcohol use. The Committee views the "Happy Hour" as the promotion of high volume alcohol use over a short period of time. The time period is usually immediately following the standard work day, thus enticing the public to stop at the licensed establishment prior to going home. There is little question that this ultimately leads to driving after drinking. This practice is of particular concern in a rural province which lacks a public transportation system.

Therefore, it is recommended that:

17. **The P.E.I. Liquor Control Commission review the existing legislation related to "discount sales and pricing" with a view to eliminating "Happy Hours" in licensed establishments in Prince Edward Island.**

The issue of the Designated Driver Program and the lack of its consistent use in licensed establishments across P.E.I. was relayed to the Committee on several occasions.

The public consensus appeared to be that this was one server intervention program that could be implemented immediately by licensed retailers with little interference to their operation but had the potential of having a major impact on keeping drinking drivers off the roads.

Sensitive to the risk of being viewed as promoting the over-use of alcohol, the Advisory Committee nevertheless endorses the use of the "designated driver" program. The Committee is of the opinion that in order for the program to be effective it must be promoted and consistently practiced throughout the province.

Ownership of the promotion of the designated driver program as a short-term server intervention technique may be suitably left in the hands of the P.E.I. Liquor Control Commission in cooperation with licensed establishments. In this regard, the Commission could demonstrate good "corporate citizenship" by supplying alcohol for distribution on one hand, while at the same time supporting responsible use of its product. An alternative to the Liquor Control Commission would be a community service group taking the responsibility of coordinating and promoting a designated driver program. Service groups in other parts of Canada have had success with this type of project, while at the same time showing a commitment to solving a pressing social problem.

Therefore, it is recommended that:

18. A province-wide "designated driver" program be implemented as part of a provincial countermeasures strategy against impaired driving.

V

VICTIMS OF IMPAIRED DRIVING

"Anyone can be a potential victim of an impaired driver."

- An Island Victim

1.0 VICTIMS

During the public meetings and presentations held by the Advisory Committee, one could not help but feel the frustration, anger and pain of victims left with the responsibilities as a result of the senseless actions of an impaired driver after death and/or injury have occurred. This frustration is shared by many who work within the justice system who know that little has been done in the past, and that present and future assistance does not go far in healing the emotional wounds that remain.

Nevertheless, some things are being done. Amendments to the Criminal Code through Bill C-89, the Victims of Crime legislation, were assented to by the Federal Parliament in September of 1988. In addressing the issue of victimization, the Bill covers such topics as the use of photographs as evidence, thus eliminating long delays in the return of personal items seized in the arrest of offenders; the allowance for Victim Impact Statements in the sentencing process; clarification of the use of restitution; and the imposing of a surcharge on persons convicted of Criminal Code or Narcotic Control Act and Food and Drug Act violations. Monies collected from the surcharge would be placed into a Victims Assistance Fund for provision for services to victims as well as for compensatory purposes.

Unfortunately, however, under present federal/provincial cost-sharing agreements, victims of impaired driving are not compensable - the rationale being that victims of impaired driving have private motor vehicle insurance or are covered under an "uninsured motor vehicle fund" to handle situations where no insurance is present.

The Advisory Committee sees this federal position as limited in scope, failing to recognize the total potential costs incurred if an individual and/or the individual's family is victimized by the crime of impaired driving.

Therefore, it is recommended that:

19. **The provincial government continue to impress at the federal level, the limitations of the present cost-sharing agreement on criminal injuries compensation as it relates to victims of impaired driving.**

The Advisory Committee heard at length on several occasions from victims of impaired driving situations that Medicare, settlements from insurance claims, and judgement recovery procedures fall far short in covering the financial costs of caring for a long-term care patient for example, injured through an impaired driving incident. The present system on P.E.I. allows for the victim or his/her legal counsel to contact Judgement Recovery (P.E.I.) Ltd. for compensation settlement involving incidents of the uninsured motorist. Judgement Recovery is financed and operated by all insurance companies licensed to provide automobile insurance in the province. Although it operates under P.E.I. legislation through the Highway Traffic Act, it is not a government fund. The process for settlement is sometimes tedious and the onus is on the victim to initiate the process.

Recently, the province was approached by the Insurance Bureau of Canada to have the provisions of the Highway Traffic Act dealing with the judgement recovery process repealed. This will allow for the "uninsured motorist" provision of the Standard Auto Policy to be implemented on P.E.I. The advantage of an uninsured motorist provision as opposed to using the judgement recovery process is the expediency with which financial help can be offered to victims of uninsured impaired drivers. Thus, an often long and cumbersome settlement process can be eliminated for the victims with the insurance companies' compensation immediately. The insurance companies in turn would take the responsibility of pursuing the uninsured motorist.

The Advisory Committee views the uninsured motorist coverage as being a partial solution to one of the many problems faced by some victims of impaired driving in this province.

Therefore, it is recommended that:

20. The provincial government move as expediently as possible in amending the Highway Traffic Act as it relates to "unsatisfied judgement" to provide for the application of "uninsured motorist" coverage in the province.

Recognizing that no amount of legal framework will ever guarantee the complete emotional and/or financial satisfaction of an aggrieved party, the province of P.E.I. is moving to support the victim through specific legislation and services.

At the provincial level the Victims of Crime Act is awaiting proclamation. This Act will allow for a Victims Assistance Fund to be supplied by monies garnered from surcharges imposed on persons convicted of any provincial and some federal statutes. In addition, the Act calls for the establishment of a Victim Services Advisory Committee to oversee services to victims in the province.

A federally funded pilot project, situated in the Charlottetown area, entitled the Victim Services Pilot Project, has been operating since January, 1988. This program offers information, counselling, and referral services to victims. This will serve as a model with plans to implement the program across the province.

"Any individual can be a potential victim of an impaired driver," was the main message delivered by victims of impaired driving to the Advisory Committee. It is the opinion of the Committee that this message, in turn, be delivered not only to the public at large through preventive education but also to those who actually violate the impaired driving laws. To this end, the concept of victimization, and where possible actual victims themselves should be included in rehabilitation programs at adult and youth correctional facilities, at the Highway Safety Division in the re-licensing process and other programs where appropriate.

Therefore, it is recommended that:

21. The concept of victimization be included in all information regarding impaired driving and to involve and utilize, where appropriate, the experience of victims in programs where drinking and driving is an issue.

A request was made to the Advisory Committee to have victim representation on the Committee on more than one occasion. With difficulty, the requests were denied on the grounds that representations from this group were best heard independent from the Committee itself. In retrospect, the effectiveness of the representations from victims' groups justified this decision.

A program implementation stage which should follow the life of the present Advisory Committee must however include victim participation. Program development and evaluation which will be included in any long-term strategy against impaired driving will benefit from victim representation and input. This should go a long way toward balancing the traditional rights of offenders with the needs, interests and rights of victims.

VI

RESEARCH AND EVALUATION

The need for a continued emphasis to be placed on evaluative research as part of a long-term strategy against impaired driving was addressed earlier in this report. Up-to-date information is essential if decision makers are to arrive at realistic conclusions regarding enforcement practices and the evaluation of existing and potential programs.

Impaired Driving on Prince Edward Island, the five-year study of impaired driving charges from 1983 to 1987 was a major component of the mandate of the P.E.I. Advisory Committee on Impaired Driving. Over and above the information and analysis contained in the report, it has provided the province with an up-to-date data base on impaired driving behaviour with unlimited potential. This data base now allows for the possibility of future comparative analysis - a component essential for future program implementation and evaluation. Simply, the province of P.E.I. is presently in a position to monitor what programs work and what do not.

In this regard the effort put into the establishment of this data base must not be wasted. The Advisory Committee is of the opinion, therefore, that priority must be given to the continuing expansion of this data base on a regular basis. In light of current developments involving the operation of the young offenders computerized record system and a similar system for adult criminal records now under development, an integrated justice information system will be established that can greatly aid in the collection and sharing of information between those agencies involved in the issue of impaired driving.

The collection of information from a singular source like police files, for example, provides a somewhat narrow perspective on the complexities of impaired driving behaviour. Consequently, data from other sources must be encouraged. The Health and Welfare Canada national survey conducted in March, 1988, on attitudes regarding alcohol and drug use and impaired driving behaviour saw one thousand households on Prince Edward Island contacted. When available this study will greatly add to an understanding of why people drink and drive - a component that is not available in the recently completed five-year study of impaired drivers on P.E.I. Night-time driver surveys are also valuable sources of information regarding drinking and driving behaviour. Though meeting with some controversy in this province, the night-time surveys under the joint auspices of provincial Highway Safety Divisions and Transport Canada have been held successfully across the country for several years. The Advisory Committee feels strongly that the provincial government support any reasonable effort proposed that will ultimately provide further insight into drinking and driving behaviour.

The Committee is also of the opinion that given the success the province has had in implementing many social and justice oriented programs in the past, the province should make itself available for any future research that will attempt to ascertain what the true costs of impaired driving are for Prince Edward Island.

It is therefore recommended that:

22. **The provincial government, through the Department of Justice and Attorney General, take the responsibility for the coordination of a centralized, continuous data collection process regarding all aspects of impaired driving behaviour. Specifically, the following must occur:**

    a) **The present data base on impaired driving statistics be continued and expanded.**

    b) **A province-wide integrated justice information system be expanded to include a crime reporting system so that impaired driving statistics can be made immediately available to those involved in any countermeasures strategy.**

    c) **The organization of a night-time driver survey begin as soon as possible.**

As already indicated, well developed research and evaluation efforts are crucial in furthering the work initiated by the Advisory Committee. Research and evaluation for, as well as the monitoring of, follow-up activities as part of a provincial countermeasures program could include the following:

1. The impact of the recent increase in drinking age on involvement of young drivers in impaired driving behaviour.

2. An in-depth examination of the relationship of fatalities/accidents to those involving/caused by impaired driving.

3. In due course, research effectiveness of the Novice Driver Program.

4. Relate the P.E.I. experience to National as well as Interprovincial findings from studies on who actually drives impaired.

5. Evaluate impact/effect of recommendations when implemented.

6. Research on Check Stop and related measures as to their effectiveness.

7. What is the effect/impact of changing age groups in population generally?

8. Research on the relationship of roads, motor vehicles, drivers generally and impaired drivers.

9. What are the real costs of impaired driving?
    - property damage
    - health costs (immediate)
    - long-term care costs of victims
    - insurance

10. What is the relationship between insurance rates, etc. with impaired driving? Who really pays? How much?

VII

THE NEED FOR A MULTIDIMENSIONAL APPROACH

1.0 THE CHALLENGE

The time and effort spent to date on exploring the intricacies of the drinking and driving issue have led to a conclusion that perhaps was known before the process began. Simply, the drinking-driving dilemma is multidimensional and extremely complex. Therefore, any attempt at solving the dilemma must also be multidimensional and fully integrated in its approach. Public support and government leadership must be maintained in the areas addressed in various parts of this report, namely: legislation, driver licensing and driver rehabilitation, treatment programs, enforcement, prevention, public awareness/education and alcohol retailing.

A coordinated network must be established involving the above-mentioned component parts which will allow for continued information sharing and communication. In addition, this coordinated network should maintain contact with and include the private sector. Ultimately, the success of any future strategy depends upon the community assuming ownership not only of the problem of impaired driving, but also its solution. Thus, public and community support is seen as the key to the implementation of any program that may arise from the networking process.

Community support is generated through heightened public awareness. The Prince Edward Island Advisory Committee on impaired driving has served to keep the issue of impaired driving before the public for the eighteen months of its mandate.

The challenge now is to maintain this momentum by not allowing the issue of drinking and driving to stray from the social consciousness of the community. The basic question is, "How?"

2.0 A MOVE TOWARDS IMPLEMENTATION

The completion of the report of the Advisory Committee on Impaired Driving, in essence, is just the beginning. The activities surrounding the development of this report - the preparation of a services inventory, public consultations and the five-year study of impaired driving charges as well as projects assisted through the Health and Welfare Community Action Program on Impaired Driving - have served to highlight activities that are now happening within the province and also have pointed to areas that need potential adjustment or change. These highlights and indicators formed the basis of some of the recommendations contained in the report.

The Prince Edward Island impaired driving strategy now enters the crucial implementation stage. It may be beyond the mandate of the present Advisory Committee to outline specific implementation strategies; however, the discussion of how the stage can be set for the potential implementation of future strategies should be of some use.

At the outset it must be established who will take initial responsibility overseeing the organization of the implementation stage.

The Advisory Committee, after much reflection, agreed that the Department of Justice and Attorney General of Prince Edward Island should, at least at the beginning, continue in its facilitator's role.

The impaired driving initiative can be full-time work. It is suggested that the province needs a unified countermeasures program particular to its provincial needs. Much work is left to be done. In this regard, the Minister of Justice and Attorney General should dissolve this Advisory Committee. In its place a coordinating advisory body must be appointed/established in some form to monitor present activity and to promote and encourage future endeavours. However, the present Committee is prepared to operate in the interim.

This coordinating body must be composed of individuals from the private and government sectors who have knowledge and expertise in various aspects of community development, with a special interest in the issue of impaired driving. It is recognized that such a body will need support funding. An interim period between phases is inevitable. It is suggested that the existing Community Crime Prevention Program operating out of the Justice Resource Service, Department of Justice and Attorney General, Charlottetown, can serve this support function. However, any long-term program must utilize and have access to its own budget. A potential source of funding is the Community Action Program on Impaired Driving distributed through Health and Welfare Canada. It is suggested that the provincial government in cooperation with affected and concerned community groups take full advantage of the Health and Welfare program.

Therefore, it is recommended that:

23. **An Advisory Committee be established by the Minister of Justice and Attorney General to coordinate and monitor existing efforts and to review and implement the recommendations of this report with the purpose of establishing a province-wide countermeasures program.**

The question may be asked, "Why is there a need for a program specific to impaired driving?" As previously noted, the challenge will now be to keep the issue of drinking and driving in the forefront of attention. It is only through a separate program that this may be possible. The public must be able to identify with a particular program. Experiences in the province of British Columbia with their program specifically geared towards impaired driving entitled Counter Attack, Ontario with its Countermeasures Program, New Brunswick with T.A.D.D. (Teens Against Drunk Driving), and Nova Scotia with the Premier's Task Force on Impaired Driving would indicate that if any success is anticipated, a specific program must be established. Program identification can be enhanced by using a logo or a symbol that can appear on all correspondence and public information originating with the provincial program. In essence, this logo or symbol can serve as a rallying point around the issue of impaired driving.

3.0 A COUNTERMEASURES PROGRAM COMMITTEE: SUGGESTED TERMS OF REFERENCE

The proposed terms of reference for the advisory coordinating committee are:

a) Review existing legislation, policies, procedures and programs regarding impaired driving and recommend necessary changes.

b) Assist law enforcement and social agencies as well as other organizations and individuals in the promotion and coordination of public education and awareness of the issues of impaired driving.

c) Assist with the development and distribution of information for those agencies and individuals who are directly involved with the issue of impaired driving.

d) Provide opportunities for new research and the continuation of ongoing research in the area of impaired driving specifically and highway safety generally.

e) Advise on other matters that the Minister may refer to the Committee for consideration.

f) Continued monitoring and development of project proposals through the Health and Welfare Canada or other funding programs. (See original Terms of Reference.)

g) Develop a province-wide countermeasures program.

h) To monitor and evaluate the effect or impact of the implementation of the recommendations contained in the report of the Provincial Advisory Committee on Impaired Driving, December, 1988.

4.0 A CONTINUAL NEED FOR SHARING INFORMATION

The sharing of information is an ongoing process crucial to the reduction and ideally to the elimination of impaired driving within the province of Prince Edward Island.

The recent examination of the issues of impaired driving within the province by the Advisory Committee on Impaired Driving serves to outline the problem areas and has resulted in the recommendations contained in this report. The opportunity must now be made to allow for the public to respond to the information contained in this report. This process must, in turn, be used to pave the way for the implementation of a province-wide countermeasures program as was suggested earlier.

One method that would allow this process to be initiated is through the organization of a provincial symposium on impaired driving. Such a forum would promote a full and open discussion on the issues of impaired driving as presented through the recommendations found in this report. These discussions would be focused with the intention of implementing a provincial countermeasures program in 1989. The symposium would also serve to publicly recognize the work that has already been accomplished in the effort to curtail impaired driving in Prince Edward Island.

Therefore, it is recommended that:

24. **a) The Prince Edward Island Advisory Committee on Impaired Driving Final Report be released as a public document as soon as possible.**

    b) A provincial symposium on impaired driving be organized as soon as possible to discuss the issues of impaired driving and the ensuing possibilities of establishing a provincial countermeasures program in 1989.

APPENDIX 1

PROVINCIAL ADVISORY COMMITTEE ON IMPAIRED DRIVING

Phil Arbing (Chairman)
Director
Community & Correctional Services
Department of Justice & Attorney General
P.O. Box 2000
Charlottetown, P.E.I. C1A 7N8

Sgt. M.E. (Miles) Foster
Traffic Supervisor
R.C.M.P., "L" Division
P.O. Box 1360
Charlottetown, P.E.I. C1A 7N1

Ken Hicks
Inspection Division
P.E.I. Liquor Control Commission
P.O. Box 967
Charlottetown, P.E.I. C1A 7M4

Dr. Leo Killorn
Director
Queens County Addiction Services
P.O. Box 37
Charlottetown, P.E.I. C1A 7K2

Jill (Lightwood) Wright
Coordinator
Justice Resource Service
Department of Justice & Attorney General
P.O. Box 2000
Charlottetown, P.E.I. C1A 7N8

Foch McNally, Deputy Registrar, Motor Vehicles
Highway Safety Division
Department of Transportation and Public Works
P.O. Box 2000
Charlottetown, P.E.I. C1A 7N8

Heather MacPherson
Community Development Coordinator
Addiction Services
Department of Health and Social Services
Dr. Eric Found Health Centre
P.O. Box 37
Charlottetown, P.E.I. C1A 7K2

Resource/Staff Person

Craig McDowall
Coordinator
Safe Driving Project
Department of Justice
P.O. Box 2000
Charlottetown, P.E.I. C1A 7N8

Appendix 2

INDIVIDUALS AND AGENCIES CONTACTED

for the

P.E.I. SERVICES INVENTORY

AGENCY/SERVICE	PERSONS CONTACTED September - November, 1987
Enforcement Category	
Supreme Court of P.E.I.	Chief Justice Norman H. Carruthers
Provincial Court of P.E.I.	Chief Judge Ralph Thompson Judge G.L. FitzGerald Judge B.R. Plamondon
Royal Canadian Mounted Police	Sgt. M. Foster, Charlottetown Sgt. P. McGarry, Montague Sgt. D. Holmes, Souris Sgt. D. Power, Borden S/Sgt. B. Singer, Summerside Sgt. B. Robinson, Alberton
Charlottetown City Police	Chief Charles Ready Deputy Chief Wayne MacIntyre
Summerside Municipal Police	Chief W.J.R. Macdonald Deputy Chief Gordon Grady
Kensington Police	Chief Paul Cousins
St. Eleanors Police	Chief John London
Highway Safety Division	Foch McNally, Deputy Registrar - Motor Vehicles
P.E.I. Liquor Control Commission	Stanhope Moore, Chairman
Intervention Category	
Adult Correctional Facilities	John Bruce, Corrections Manager Preston Robbins, Superintendent, Provincial Correctional Centre Bill Berry, Superintendent, Prince County Jail
Young Offender Programs/Facilities	John Picketts, Administrator
Community Corrections/Probation Services	Carl Doucette, Senior Probation Officer

Addiction Services	Dr. L. Killorn, Queens County Betty Campbell, Prince County Peggy McInnis, Kings County
Mann House	Anne Tierney, Manager

Prevention/Education Category

P.E.I. Medical Society	Marilyn Lowther, Executive Director
Students Against Driving Drunk (SADD)	Lance Miron, Teacher/Advisor Colonel Gray Senior High School
Mothers Against Drunk Drivers (MADD)	Shirley Arsenault Mary Jane Monty
Community Legal Information Association	Beverly Mills Stetson, Executive Director
Prince Edward Island Citizens Against Drug Abuse	Dr. E. Edmonds
Victims of Impaired Driving	Christine Lavers

"Other" Category

Tourism Industry Association of P.E.I.	James Larkin, General Manager
P.E.I. Restaurant and Food Services Association	Don Cudmore, Vice-President
Insurance Brokers Association of P.E.I.	Jeff Cooke
Young Drivers of Canada	Paul Lockhart
Prince Edward Island Law Society	Eugene Murphy, President
Office of the Public Defender	Kent Brown, Director
Hospital and Health Services Commission	Thelma Cameron, Director

PARTICIPANTS IN PRESENTATION OF BRIEFS

TO

ADVISORY COMMITTEE ON IMPAIRED DRIVING

February, 1988

1. Women's Institute of P.E.I. - Evelyn Clow & Geneva King
2. P.E.I. Medical Society - Dr. Donald Taylor
3. P.E.I. Restaurant & Food Services Association/Tourism Industry Association - Jim Larkin & Nelson Roberts
4. Mann House - Joan Duffy & Anne Hyde
5. Charlottetown Christian Council - Patrick Wooton & Rev. Jacques Smith
6. S.A.D.D. - Three Oaks Senior High School
7. M.A.D.D. - Mary Jane Monty & Shirley Arsenault
8. Victims - Christine Lavers, Marlene Campbell & Donna Moase

NOTE: This was in response to invitations both by letter and through the media as well as personal contact by the Coordinator with some 40 agencies and organizations.

File produced by Alan Donelson, Ph.D.
Senior Research Scientist, Traffic Injury
Research Foundation of Canada

SELECTED CANADIAN LEGISLATION RELATED TO IMPAIRED DRIVING[1]

Phase	Section of Criminal Code (year)	Provision/Offence
ONE Classical Law (1921-1950	S.285 C (1921)	"Driving a motor vehicle while intoxicated" made an offence
	S.285 C	"Driving a motor vehicle while intoxicated" - inclusion of a provision for driving under the influence of narcotics - addition of the phrase "drives any motor vehicle or automobile or has care or control of a motor vehicle or automobile"
	S.285 C becomes S.284.4 (1930)	"Driving while intoxicated or under the influence of any narcotic" - punishments are made indictable as well as summary conviction
	S.284.4 (1935)	A provision forcing judges to impose a jail term instead of fine or suspended sentence
	S.285.4 (1938)	A provision for suspension of driving licence by a court order for a period not exceeding three years
	S.285.4 (1939)	A provision requiring a copy of the court-ordered licence suspension be sent to the Registrar of motor vehicles for the Province where the licence was first issued
	S.285.4 (1947)	A provision enabling an accused the opportunity to explain why he/she entered a vehicle in an intoxicated state
TWO Corroborative Chemical Testing (1951-1969)	S.285.4 (1951)	Addition of a section - "Driving while ability is impaired." Addition of a clause on chemical analysis of blood, breath or urine on a voluntary basis. Inclusion of three-stage system of sanctions.
	S.285.4 becomes sections 222 to 225 (1954-1955)	S.222-Driving while intoxicated S.223-Driving while ability to drive is impaired S.224-Conviction under S.223 when charged with an offence under S.222 S.225-Order prohibiting driving

---

[1] Adopted from Haynes (1985), Appendix 2, pp. 284-287.

Phase	Section of Criminal Code (year)	Provision/Offence
TWO (continued)	S.224 (1959)	Additional clause making the certificate of breath analysis prima facie evidence
THREE Per Se Law (1969-1976)	S.222 to S.225 becomes S.234 to S.237 (1968-1969)	S.234-Driving while ability is impaired S.234.1-Making a breathalyzer test compulsory within a two hour time span of committing offence under S.234-Breathalyzer Demand S.235-Failure or refusal to provide a breath sample made an offence with summary conviction sanctions S.236-Driving with more than 80 milligrams of alcohol in 100 millilitres of blood, made an offence. This replaced the old offence under S.222 of driving while intoxicated S.237-Order prohibiting driving
	S.237 (1972)	A provision enabling judges to prohibit driving by an offender at all times and places as may be specified on the Order.
FOUR Post-Per Se Period (1976-_____)	S.234 to S.238 (1976)	S.234(1)-Driving while ability to drive is impaired S.234(2)-Conditional and absolute discharges for offenders deemed in need of rehabilitation for alcohol or drug problems
	S.234.1(1)	Demand for roadside screening of breath
		S.234.1(2)-Failure or refusal to comply with the demand, made an offence S.235(1)-Demand for sample of breath for breath sample is made an offence S.235(2)-Failure or refusal to provide a breath sample is made an offence S.236(1)-Driving with more than 80 milligrams of alcohol in 100 millilitres of blood S.236(2)-Conditional and absolute discharges for rehabilitation S.236.1-Where previously convicted under Sections 234, 234.1, 235 or 236 these convictions shall be seen, for the purpose of punishment, as a first or second offence, as the case may be S.237-A number of provisions regulating the administration and quality breathalyzer testing S.238(3)-Driving while disqualified. Section 238 subsections (1) and (2), regarding prohibiting of an offender's driving licence, are repealed and removed from the Criminal Code Punishments for first, second and each subsequent offence under Sections 234(1), 234.1(2), 235(2), and 236(1) are stiffened to the same degree with longer jail terms and heavier fines.

Phase	Section of Criminal Code (year)	Provision/Offence
FOUR (continued)	1985	Various amendments included in Bill C-18; legislation received royal assent in June 1985 and was proclaimed in force as chapter 19 (C.19) of the Statutes of Canada 1985 in December 1985. See text of this report for details of changes introduced in C.19.

LIST OF ALCOHOL COUNTERMEASURES[1]

1. Record in driver's record alcohol-related traffic convictions for court records.
2. Record in driver's record nontraffic alcohol-related convictions.
3. Record in driver's record all alcohol-related information from social health agency records.
4. Provide for flagging vehicle record for cars owned by problem drinkers.
5. Include alcohol safety questions in license examination and driver handbook.
6. Provide for certification by the license applicant regarding previous arrests and treatment for alcoholism.
7. Provide for including chemical test data in accident record.
8. Provide for chemical tests and specify concentrations.
9. Provide for implied consent for chemical tests.
10. Require license revocation if test is refused.
11. Set specifications and procedures for chemical test.
12. Establish qualifications for alcohol safety personnel.
13. Provide for special enforcement of drinking-driving laws.
14. Provide for special training on breath testing equipment.
15. Determine locations and times of day of accidents involving drinking pedestrians.
16. Require presentence investigation of convicted drinking drivers.
17. Provide for referral of problem drinkers for treatment.
18. Establish medical advisory boards (MAB's) for licensing agency.
19. Provide for review of convicted DWI drivers by MAB prior to reinstating license.
20. Empower MAB to require physical exams on drivers whose records they review.
21. Provide for vehicle impounding for driving while license is revoked or for second DWI conviction within three years.

---

[1] Copied from TIRF, Vol. 4, 1985.

22. Provide for cancellation of collision insurance if insured driver has BAC above 0.10%.

23. Provide for special surveillance of revoked drivers.

24. Develop special pedestrian safety programs in areas of high accident risk or drinking, i.e. (1) better lighting, (2) reroute traffic, (3) reduce speed limits, (4) special caution signs.

25. Provide special patrols to assist intoxicated pedestrians.

26. Arrange for detoxification and treatment assistance for pedestrians.

27. Provide for suspension or revocation of license plates of vehicles owned by convicted drinking drivers.

28. Provide for special tags or registration certificates for vehicles owned by convicted drinking drivers.

29. Prohibit the transfer of vehicles with special registration certificates.

30. Develop mass media public education campaign on alcohol safety.

31. Develop speakers bureau program on alcohol safety.

32. Augment alcohol safety sections of high school driver education programs.

33. Add sections on alcohol to primary safety courses and to appropriate secondary courses (Family Life courses).

34. Develop school driver improvement program for special offenders.

35. Implement a driver assistance program in cooperation with social and health agencies.

36. Provide colored driver licenses for underage persons who might try to falsify entries on a license to purchase alcoholic beverages.

37. Revoke driver's license for multiple convictions of drunkenness, even if unrelated to driving.

38. Establish more severe penalties for drinking and driving.

39. Provide insurance discounts for nondrinkers.

40. Advise taverns and public drinking places of identity of convicted DWI offenders and forbid sale of liquor to them (practical only in small towns).

41. Make tamper-proof breath-meter control of car starting a mandatory device for all vehicles.

42. Control maximum speed according to BAC as indicated by breath-meter.

43. Place notices on liquor and beer bottles telling maximum legal blood alcohol.

44. Use twisting obstacle driving course on the road. Those who knock over cones or lights are tested for alcohol.

45. Take the convicted DWI offender out some distance on a road without buses and force him/her to walk home (used in Turkey).

46. Revoke licenses of teenagers who drive after drinking any amount.

47. Provide for prosecution of an individual who can prevent an intoxicated person from driving but doesn't.

48. Provide for driver self-testing by commercially available screening breath tests.

49. Revoke license for lifetime after three convictions for DWI.

50. Establish fifty milligrams percent alcohol as legal limit for those under twenty-one.

51. Use state commissions to contact DWI offenders who may be alcoholics for purposes of attempted rehabilitation.

52. Establish national prohibition effectively enforced. (Do special studies to determine why earlier law failed.)

53. Establish crisis intervention centres similar to suicide prevention centres.

54. Promote the adoption of "per se" laws and strong implied consent laws.

55. Establish selective licensing limitation on time or place of permitted driving.

56. Distribute portable breath tester devices to bars.

57. Establish blockades at the roadside.

58. Request high school principals to announce publicly the names of students killed or injured in alcohol-related accidents.

59. Establish measures to increase probability that prosecution for DWI will take place for actual DWI.

60. Establish measures to increase awareness of an increased probability that conviction will follow guilt.

61. Arrange for free mass transit on high drinking holidays.

62. Pass a law stating that to purchase liquor, one's BAC must be less than 0.10%.

63. Show color sound films of DWI suspects to lawyers and court.

64. Make penalties less severe, but more likely, i.e. all DWI's are fined two week's pay and required to work for local government for two weeks.

65. Provide "state-dependent" training, i.e. teach persons while they are intoxicated, to drive safely.

66. Educate businesses (for example, promotion of liquorless parties or provision to transport people home without driving, in case drinking does take place).

67. Offer free coffee (mostly to delay driving long enough to reduce alcohol level somewhat).

68. Pay for taxis to take people home.

69. Sponsor the availability of individual non-drinkers at parties.

70. Create a youth driving corps first for holiday driving such as at Christmas and New Years, and then use such a youth driving corps for every weekend (night?) in the year.

71. Provide for imprinting by manufacturers of liquor bottles warning of the dangers above certain levels.

72. Have cab companies with two-man teams of drivers available - a cabbie to drive a drinker home and his/her companion to drive the drinker's car home.

73. Educate as to methods of diminishing alcohol effects.

74. Search for counter-chemicals to antagonize alcohol effect, e.g. a sober-up pill that rapidly oxidizes alcohol in the body.

75. Change opinions of peers. This might be especially effective in high school and early college age groups. The drinker would now be a member of an out-group, not an in-group.

76. Change the self-image of the drinking driver. For example, show sound color films or photographs of himself under the influence of alcohol to him/her rather than to the lawyers or jury for legal purposes.

77. Change the self-image of the driver by having drinking drivers referred to a psychiatrist, psychologist, or "mental health counsellor," as was done by Barmack and Payne (1961).

78. Use publicity in regard to those convicted of driving while intoxicated.-

79. Put person on an alcoholic ward over a weekend after first DWI conviction so he/she sees and talks with late stage alcoholics.

80. Teach young drivers how to stay awake while driving at night: shoes off, window open, sing, loud radio, short nap at roadside, etc.

81. Bring "peer pressure" to bear on the buyer of alcohol for underage drinkers.

82. Use telephone "hot lines" for drinker assistance, 24-hour information and referral, or for direct access to previous driver records.

83. Reduce time and "red tape" requirements for arresting officers.

84. Use mobile breath testing vehicles that move directly to scene of arrest or accident.

85. Organize and utilize local volunteers for public education efforts.

86. Make convicted DWI offenders who are at fault for an accident, responsible for all associated financial losses, up to a level of 50% of their total net worth.

87. Have judges and police officers drink, in a protected environment, until their BAC reaches 0.10%.

88. Form a union of nondrinking drivers to lobby for legislation, reduced insurance rates, etc. (Andreasson)

89. Publicize the place at which the driver or pedestrian had been drinking as part of the accident report in alcohol-related accidents (especially fatals).

90. Use alcohol-related trigger films for alcohol abstinence.

91. Enhance social tolerance for alcohol abstinence.

92. Encourage employers to use the threat of job loss as a lever to move problem drinkers to obtain treatment.

93. Focus on early detection of problem drinking (alcoholism, like cancer, can be controlled if detected early enough).

94. Improve host behaviour, e.g. serve fewer drinks, serve less potent drinks, serve food, provide sober drivers for heavy drinkers.

95. Publicize widely the states of alcoholism and, especially, the symptoms associated with early stages.

96. Encourage public to drive less during high risk hours for alcohol-related accidents.

97. Teach alcoholic drinkers (gulping pattern, several drinks in short time period) to become social drinkers (sipping pattern), fewer drinks over same period of time (Mills, 1971).

98. Have police officers randomly sample BAC's in bars and issue warning to those with BAC's at or above 0.10% that they cannot drive.

99. Double the taxes on alcohol and devote increased revenue to countermeasures against alcohol-related traffic accidents.

100. Encourage the idea that even small amounts of alcohol may be deleterious to health.

101. Establish a new bar tax to which exemptions are granted on the basis of proximity of the customer's residence to the bar (P. Hurst, personal communication).

102. Make technical literature and samples of previous alcohol-oriented public information campaigns available free to persons who request it (Highway Safety Research Institute, Public Communications Group, 1972).

103. Standardize the closing time of all drinking establishments and increase substantially the enforcement shortly before and after that time. (See Raymond, 1969).

104. Promote the adoption of pre-arrest breath testing similar to that used in Great Britain.

105. Develop, validate, and apply paper and pencil tests to identify potentially dangerous drinker drivers (Selzer & Chapman, 1971; Mortimer & Lower, 1971).

106. Identify community officials likely to be working with abusive drinkers and enlist their support in the planning and execution phases.

107. Reduce the frequency of "plea-downs," informal arrangements to plead guilty to a lesser offence, e.g. reckless driving rather that DWI.

SELECTED BIBLIOGRAPHY

Aberg, L., Routine Breath Testing and Drivers' Perceived Probability of Breath Test. Paper presented at International Conference on Alcohol, Drugs and Traffic Safety, Amsterdam (September, 1986).

Addiction Research Foundation (Ontario), "The Drinking Driving Dilemma," The Journal, March 1, 1985.

Addiction Research Foundation (Ontario), "Press Coverage Slowing Down Drinking Drivers," The Journal, July, 1986.

Addiction Research Foundation, A Programmer's Guide to Community Based Countermeasures Against Impaired Driving, Addiction Research Foundation, Toronto, 1985.

Addiction Research Foundation (Ontario), "Rules for the Road: Canada's DWI Legislation, " The Journal, March, 1988.

Alberta Alcohol, Drug Addiction Commission, IMPACT: Program Development Studies, Edmonton, Alberta (1988).

Alberta Transportation and Utilities Alberta Traffic Collision Statistics, Edmonton, March, 1988.

Alford, David, Impaired Driving Legislation: Comparisons Among Countries, Department of Justice, Canada, Ottawa, 1986.

Alford, D.G., Impaired Driving Facts and Figures: A Summary of Statistics and Public Opinion, Department of Justice, Ottawa, December, 1986.

Department of Justice & Attorney General, Impaired Driving: Inventory of Audio Visual Materials Available on P.E.I., Charlottetown (December, 1988).

Department of Justice & Attorney General, P.E.I. Services Inventory on Impaired Driving, Charlottetown, (December, 1987).

Department of Justice & Attorney General, Public Opinion Research Reports: Impaired Driving, Ottawa, September, 1987.

DiBlasio, F.A., "Predriving Riders and Drinking Drivers," Journal of Studies on Alcohol, Vol. 49 (1), 1988, pp.11-15.

Dodd, J.D., Provincial Correctional Centre Program Review, P.E.I. Department of Justice, June, 1988.

Donelson, A.C., et al, Youth, Alcohol and Traffic Accidents: Past and Future Directions, Department of Justice, Ottawa, January, 1986.

Donelson, A.C., Beirness, D.J., and Simpson, H.M., Beverage Alcohol Concentration and Traffic Safety, Traffic Injury Research Foundation, Ottawa, 1988.

Donelson, A.C., Walsh, P.J. and Haas, G.C., Alcohol Use by Persons Fatally Injured in Motor Vehicle Accidents: 1985, Transport Canada, 1987.

Donovan, D., Marlatt, G. and Salzberg, P., "Drinking Behaviour, Personality Factors and High Risk Driving," Journal of Studies on Alcohol, Vol. 44 (3), 1983.

D.P.A. Group, Final Report: Impaired Driving Qualitative Research Project, Health & Welfare Canada, Ottawa, April, 1988.

Durie, Helen, Impaired Driving on Prince Edward Island: A Study of Impaired Driving Charges, 1983-1987, P.E.I. Department of Justice, Charlottetown, 1988.

Finley, B., Characteristics of the Senior High Student Who Drinks and Drives, Paper delivered at 34th International Congress on Alcoholism and Drug Dependence, Alberta, 1988.

Government of Canada, Perspectives of the Alcohol/Traffic Safety Problem in Canada (No Date).

Jeune, R., Huebert, C., et al, Impact: Program Development Studies, Alberta Alcohol and Drug Abuse Commission, Edmonton, 1988.

Jonah, B. and Wilson, R.J., "Impaired Drivers Who Have Never Been Caught: Are They Different from Convicted Impaired Drivers?" SAE Technical Paper Series, No. 860195, Warrendale, Penn., 1986.

Jonah, B and Wilson, R.J., "Improving the Effectiveness of Drinking-Driving Enforcement through Increased Efficiency," Accid. Anal. & Prev., Vol. 15 (6), 1983, pp. 463-481.

Kearns, I., Vazey, B., et al, An Overview of the Random Breath Testing Trial in New South Wales, Paper presented at International Conference on Alcohol, Drugs and Traffic Safety, Amsterdam (September, 1986).

Killorn, L.H., Impaired Driver Program Survey, Alcohol and Drug Problems Institute, Charlottetown, 1988.

Lederhaus-Popkin, C., et al, Factors Associated with DWI Convictions, Paper delivered at 31st Annual Proceedings: American Association for Automotive Medicine, New Orleans, Louisiana, September, 1987.

Love, Arnold J., The Impaired Driver in Prince Edward Island, Addiction Foundation of P.E.I., Charlottetown, 1974.

MacDonald, D., A Half in Five: An Open Report to the Government and People of P.E.I., April, 1975.

Mann, R., Vingilis, E., et al, "School Based Programmes for the Prevention of Drinking and Driving: Issues and Results," Accid. Anal. and Prev., Vol. 18 (4), 1986, pp. 325-337.

Mann, R., Vingilis, E., and Stewart, K., "Programs to Change Individual Behaviour: Education and Rehabilitation in the Prevention of Drinking and Driving," in Laurence, M.D., Snortum, J.R. and Zimring, F.E., The Social Control of Drinking and Driving, Chicago: University of Chicago Press, in press.

Maxim, P., Ferrence, R., and Whitehead, P., An Analysis of the Collision Involvement of Young, Male Drivers at Low Blood Alcohol Concentrations, Department of Justice, Ottawa, March, 1986.

Mercer, G.W., Counter Attack: Traffic Research Papers, 1985. Counter Attack Program, Ministry of Attorney General, Vancouver, B.C., 1988.

Mercer, G.W., Counter Attack Research Papers, 1986. Counter Attack Program, Ministry of Attorney General, Vancouver, B.C., 1987.

Mercer, G.W., Counter Attack: Traffic Research Papers, 1987. Counter Attack Program, Ministry of Attorney General, Vancouver, B.C., 1988.

Mercer, G.W., "The Relationships Among Driving While Impaired Charges, Police Drinking-Driving Road Check Activity, Media Coverage and Alcohol Related Casualty Traffic Accidents," Counter Attack: Traffic Research Papers, pp. 30-37 (1986).

Minch, C., Manitoba Roadside Survey of Night Time Driving Behaviour. Federal Ministry of Transport and Departments of Attorney-General and Highways of Manitoba, March, 1988.

Ministry of the Attorney General's Office, Countermeasures, Vol 2 (1), Drinking and Driving Countermeasures Office, Toronto, 1988.

Ross, L.H., "Social Control through Deterrence: Drinking-Driving Laws," Annual Review of Sociology, 10, pp. 21-35 (1984).

Salzberg, P., and Klingberg, C., "The Effectiveness of Deferred Prosecution for D.W.I.," Journal of Studies on Alcohol, Vol. 44 (2), 1983.

Single, E., Towards a National Network for Server Intervention Programming, Remarks made to the National Steering Committee on Impaired Driving, March 23, 1988, Ottawa.

Statistics Canada, General Social Survey, Health and Social Support (Draft), Text tables 2.1.1 and 2.1.2, Ottawa, 1987.

Statistics Canada: Canadian Centre for Justice Statistics, Juristat, Vol. 7, No. 4, September, 1987.

Statistics Canada: Canadian Centre for Justice Statistics, Juristat, Vol 8, No. 4, September, 1988.

Sutton, L.R., "The Effects of Alcohol, Marihuana and Their Combination on Driving Ability," Journal of Studies on Alcohol, Vol. 44 (3), 1983.

Traffic Injury Research Foundation, Crossroads, Vol. 1 (5), February, 1988.

Traffic Injury Research Foundation, Crossroads, Vol. 2 (2), June, 1988.

Traffic Injury Research Foundation, Impaired Driving: Alcohol and Fatal Road Accidents in Canada: A Statistical Look at Its Magnitude and Persistence (Vol. 3), Department of Justice, Canada, Ottawa, 1985.

Traffic Injury Research Foundation, Impaired Driving: Alcohol and Road Accidents in Canada: Issues Related to Future Strategies and Priorities (Vol. 4), Department of Justice, Canada, Ottawa, 1985.

Traffic Injury Research Foundation, Impaired Driving: Alcohol and Road Accidents in Canada: Issues Related to Future Strategies and Priorities (Vol. 5), Department of Justice, Canada, Ottawa, 1985.

Traffic Injury Research Foundation, Impaired Driving: Characteristics of Drinking Drivers (Vol. 1), Department of Justice, Canada, Ottawa, 1985.

Traffic Injury Research Foundation, Impaired Driving: Legislative Issues Related to Drinking and Driving (Vol. 2), Department of Justice, Canada, Ottawa, 1985.

Transport Canada, Road Accidents Statistics in Canada - 1986, Transport Canada, Ottawa, 1987.

Transport Canada, Smashed, Road Safety and Motor Vehicle Registration Director, Ottawa (1987).

Vingilis, E. and DeGenova, K., "Youth and the Forbidden Fruit: Experiences with Changes in Legal Drinking Age in North America," Journal of Criminal Justice, Vol. 112, 1984, pp. 161-172.

Vingilis, E., DeGenova, K., and Adlaf, E., "Drinking-Driving Behaviour of Ontario High School Students," Canadian Journal of Public Health, Vol. 77 (3), May/June, 1986, pp. 196-200.

Volume

2

REPORT OF THE PRINCE EDWARD ISLAND
ADVISORY COMMITTEE ON
IMPAIRED DRIVING

Volume II

A Research Study of Impaired Driving Charges in Prince Edward Island During the Five Year Period 1983 - 1987

by

Helen Durie

December, 1988

Funding assistance provided by the federal Department of Justice and the Department of Justice, Prince Edward Island.

IMPAIRED DRIVING ON PRINCE EDWARD ISLAND, 1983 - 1987

Table of Contents

HIGHLIGHTS

EXECUTIVE SUMMARY i

I. PURPOSE OF REPORT 1

II. METHODOLOGY 1

- i) Source of Information 2
- ii) Data Collection 3
- iii) Information Included in the Study 3
- iv) Data Analysis 4

III. IMPAIRED DRIVING INCIDENTS 4

IV. DRIVERS CHARGED WITH IMPAIRED DRIVING 6

- i) Gender 6
- ii) Age 7
- iii) Drivers Involved in Repeat Incidents 9
- iv) Status of Driver's Licence 11

V. DESCRIPTION OF IMPAIRED DRIVING INCIDENTS 12

- i) Reason for Apprehension 12
- ii) Accidents, Fatalities and Injuries 14
- iii) Blood Alcohol Level 16
- iv) Time of Day at which Incident Occurred 19
- v) Month of Incident 21
- vi) Incidents in relation to Police Jurisdiction 22
- vii) Driver's Address in Relation to Jurisdiction 23 of Police 23
- viii) Urban and Rural Incidents 24

VI. CHARGES LAID IN IMPAIRED DRIVING INCIDENTS 26

VII. COURT OUTCOME OF IMPAIRED DRIVING CHARGES 29

- i) Court Decision 30
- ii) Sentences Imposed Upon Conviction 30
- iii) Amount of Fines 33
- iv) Length of Jail Terms 35
- v) Driving Prohibition Orders 37

VIII. DISCUSSION 38

IX. FUTURE RESEARCH 42

List of Tables

Table 1
Number of Persons Charged with Impaired Driving Offences 4

Table 2
Age of Persons Charged with Impaired Driving Offences 8

Table 3
Repeat Involvement in Impaired Driving Incidents 10

Table 4
Reason for Apprehension in Impaired Driving Incidents 13

Table 5
Impaired Driving Incidents Involving an Injury or Fatality 15

Table 6
Blood Alcohol Concentration in Impaired Driving Incidents 17

Table 7
Blood Alcohol Concentration by Age of Driver 18

Table 8
Time of Day of Impaired Driving Incidents 20

Table 9
Month of Impaired Driving Incidents and Location of Driver's Licence 22

Table 10
Urban/Rural Distribution of Impaired Driving Incidents 25

Table 11
Impaired Driving Charges, P.E.I., 1983 - 1987 28

Table 12
Sentences for Impaired Driving Offences 31

Table 13
Fines Imposed for Impaired Driving Convictions 34

Table 14
Jail Terms Imposed for Impaired Driving Convictions 36

List of Appendices

APPENDIX A
Criminal Code Impaired Driving Offences 44

APPENDIX B
Information Collected from Police Incident Files 46

APPENDIX C
P.E.I. Licensed Drivers by Age Group, as of October 1987 47

APPENDIX D
Fatalities, Injuries and Collisions, P.E.I. 1983 - 1987 48

APPENDIX E
Impaired Driving Incidents Enforced by P.E.I. Police Jurisdictions 1983 - 1987 49

APPENDIX F
Charges Laid in Impaired Driving Incidents 50

APPENDIX G
Sentences for Impaired Driving Offences by Offence 51

ACKNOWLEDGEMENTS

While full responsibility for design and analysis lies with the Research Coordinator, assistance and advice from others has been welcomed along the way. Thanks are due first to Craig McDowall, the Coordinator of the Safe Driving Project, who took care of many of the administrative needs of the study and assisted with data collection but, most importantly, offered unhesitating support and encouragement at all times. Most of the data was collected by Sandra Lore and Linda Burke, who also contributed invaluable suggestions during the pilot phase. They competently and in good spirit carried out a task that was at the same time tedious and filled with new challenges, ranging from winter blizzards on the road to Alberton to having to vacate their temporary office when the breathaliser was needed, and much in between.

The study could not have been conducted without the cooperation of all municipal and RCMP police chiefs. Appreciation is due for the willingness with which assistance was given, and especially to police staff who had the additional task of retrieving files and making space available, and interpreting the complexities of police files and the law when needed. Thanks also to Irene MacDonald at RCMP's 'L' Division, who provided the lists of files that served as the key to the study. Special appreciation is expressed to Myrna Reeves and records staff at the Highway Safety Division, who maintain an extraordinarily efficient manual records system (soon to be automated), and relate to each other and an often demanding driving public with unshakeable grace. Foch McNally, Safety Coordinator at Highway Safety, was able to provide road driving statistics whenever I called.

Marie Furness of Computer Services answered my varied queries during design and testing, and coordinated the entry of data into the provincial government computer. Thanks also to Data Entry staff who keyed in data from over 5,000 forms. Susan Doiron was always available with competent and friendly Client Support, and alleviated my fears when it occasionally seemed that the data base was lost. Finally, a warm thanks to Helen Clow in the Department of Health and Social Services, who freely offered friendly assistance whenever I called upon her expertise as an SPSS user.

Helen Durie
Research Coordinator

August 1988

IMPAIRED DRIVING ON PRINCE EDWARD ISLAND, 1983 - 1987

HIGHLIGHTS

* 5,335 drivers were charged with impaired driving in P.E.I. during 1983 - 1987.

* Annual charges fell by 27% from 1983 to 1987, although P.E.I. continues to have the fifth highest rate of impaired driving charges across Canada.

* 94% of charged drivers over the five years were males. The proportion of females increased from 5% to 7% over the five years.

* One in three charged drivers was under 25 years, and one-quarter were aged 20-24. The 16-19 year age group was the only age group to decrease in proportion relative to other age groups over the five years.

* One in five drivers was charged in at least two separate incidents during the five years. One in twelve drivers was driving while prohibited as a result of a previous impaired driving conviction.

* One in seven drivers was charged following an accident. Accidents resulted in 8 deaths and 200 injured persons over the five years. Female drivers were slightly more likely to be charged as a result of an accident than male drivers, who most frequently came to police attention as a result of erratic driving behaviour.

* The highest blood alcohol concentration was 380 mg., and the average reading was 162 mg. Older drivers, and drivers involved in accidents, tended to have higher BAC readings.

* One in five impaired driving charges was laid between midnight and 1.30 a.m. The monthly level of charges increased during the summer months, with more charges against both P.E.I. and out of province drivers.

* P.E.I. drivers are much more likely to refuse to provide a breath sample than drivers in most provinces, although all Atlantic provinces are higher than elsewhere in Canada.

* The typical sentence for an impaired driving conviction has increased from a $250 fine in 1983 to an $800 fine and 3 days in jail in 1987. The sentence is usually more severe for conviction on 'refusal' than for 'over 80 mg.'

IMPAIRED DRIVING ON PRINCE EDWARD ISLAND, 1983 - 1987

EXECUTIVE SUMMARY

This report provides a description of police-detected impaired driving on Prince Edward Island between 1983 and 1987. The study was conducted for the P.E.I. Advisory Committee on Impaired Driving, and forms part of the activities of the P.E.I. Safe Driving Project, a provincially-sponsored project with funding assistance from the federal Department of Justice. One of the Terms of Reference of the Advisory Committee was 'to research and develop a demographic profile and statistical analysis of the drinking driver in Prince Edward Island, bringing attention to significant trends/variables where possible over the past five to seven years'.

The research reported on here is based on all incidents in which police laid charges for an impaired driving offence between 1 January 1983 and 31 December 1987. Impaired driving charges include 'driving while impaired', 'driving with over 80 mg.' and 'refusal to provide a breath sample' (or blood sample). Police files at all police detachments and municipal forces across the Island served as the primary source of information, with the Highway Safety Division at the Department of Transportation and Public Works providing supplementary information.

In addition to describing the nature and extent of impaired driving incidents, the drivers involved, and the court outcome of charges over the five year period, the report also provides some comparisons with national trends, and with the findings of a study of impaired driving charges in P.E.I. in 1971-72. A particular focus of analysis in the present study was whether 1985 Criminal Code amendments to impaired driving offences and penalties have had an impact on the incidence of impaired driving or on court penalties.

During the five years, 5,335 drivers were charged with impaired driving. The number of persons charged annually increased by 6% from 1983 to 1984, but then decreased by 10%, 19% and 7% each year thereafter, for an overall decrease of 27% by 1987 relative to 1983. This compares with Canada-wide annual decreases in the number of persons charged with impaired driving every year from 1983 to 1986, and an overall Canada-wide decrease of 12.6% from 1982 to 1986.

The largest annual decrease in P.E.I. was from 1985 to 1986, suggesting that the amended laws had an immediate impact on impaired driving. The decreasing trend, however, was already underway before the Criminal Code amendments came into effect. Information on whether police charging practices changed during the period of the study was not consistently available, and any possible effects of police practices on charge levels are not considered. However, it is most likely that the trend towards fewer charges is due in large measure to the deterrent effect of higher fines being ordered in P.E.I. courts beginning even before 1985, and then increasing considerably in severity in 1985, together with a gradual change in social attitudes towards drinking and driving. A broad education campaign which accompanied the introduction of the proposed changes to the laws undoubtedly contributed to the decreasing incidence of impaired driving. Despite the substantial decrease in persons charged over the five years, however, P.E.I. had the fifth highest rate of impaired driving across Canada in 1986.

Consistent with studies of impaired driving elsewhere in Canada, over 90% of charged drivers were male, although the proportion of females increased from 5% to 7% over the five year period. Just over half of all P.E.I. licensed drivers in 1987 were male. Males typically assume the driver role when they are with a female, and are therefore much more frequent drivers than females. This probably accounts for a substantial part of the difference in the number of charges between female and male drivers.

One in three drivers charged with impaired driving was under 25, and all age groups under 30 were over-represented among charged drivers compared to their level in the licensed driving population. Charged drivers in the 20-24 year age group (25%) were almost double their proportion among licensed drivers (13%), while drivers in their 30's were charged in the same proportion as their share among licensed drivers, and older charged drivers were under-represented. Females were more likely to be over 30 than males. The average age of all charged drivers was 32, with ages ranging from 15 to 84 years. Impaired drivers in this study were slightly younger overall than those charged with impaired driving in 1971-72. Whether younger drivers actually drink and drive more frequently, or whether they incur more charges because they are on the road more frequently, or their age, vehicle or more aggressive driving behaviour makes them more visible to police, are factors to be considered. Young male drivers in particular are probably more likely to come to police attention. It is notable that 16 to 19 years olds were the only group to show a decrease over the five years, down from 11% of charged drivers in 1983 to 7% in 1987.

One in five drivers was charged more than once during the five years, and 5% were charged three times or more. (Data limitations suggest that the proportion of repeat charges is likely to have been a little higher.) Studies elsewhere in Canada have found that about 15% (range 10-38%) of charged drivers are repeat offenders. Eight percent of drivers were under suspension from a previous impaired driving conviction when they were charged.

In almost 70% of incidents, the driver came to the attention of police through routine road patrol enforcement. In 40% of incidents, the police report indicated that the driver was stopped because of apparent impairment, and another 27% of drivers were charged after being stopped for a driving or vehicle infraction. Random road checks accounted for 3 percent of charges.

One in seven impaired driving charges resulted from an accident, a proportion very similar to that reported for 1971-72. There were eight deaths and 200 injuries, with the charged driver sustaining injury in 100 incidents. Relative to male drivers, females were more a little more likely to incur an impaired driving charge as a result of an accident, although all deaths occurred in incidents involving a male driver, and females drivers were not disproportionately involved in incidents causing injuries. Almost half of charged drivers who were injured were under 25. These accident data do not necessarily cover all accidents during the study period in which alcohol was a possible factor, as an impaired driving charge may not be laid in an accident where a more serious criminal charge is laid.

The average blood alcohol concentration (BAC) level was 164 mg., and the highest was 380 mg., with one in five over 200 mg. Females tended to have lower BAC levels than males, and older drivers tended to have higher levels than younger drivers. BAC levels here tended to be slightly lower than those found in other Canadian studies. Drivers involved in incidents where there was an injury (and where a BAC reading was taken) had higher BAC levels, with 70% over 150 mg. compared to 50% for drivers where no injury was involved.

Two out of three impaired driving incidents occurred between 9 p.m. and 3 a.m., with close to 40% occurring between midnight and 3 a.m. Incidents occurred more frequently (10%-12%) during the summer months (June to August), although similar levels occurred in May and October, with the lowest levels (5%) recorded in January and February. The proportion of out-of-province drivers increased substantially during the summer months, and accounted for some of the increase, but the absolute number of P.E.I. licensed drivers charged also increased during these months.

Just under one-quarter of all impaired driving incidents were handled by the RCMP Charlottetown detachment, with the Charlottetown and Summerside municipal police forces and the RCMP Montague detachment each dealing with 10% of incidents. All RCMP detachments and municipal police forces charged fewer drivers in 1987 than in 1983. One third of impaired driving incidents occurred in urban areas (Charlottetown, Parkdale, Sherwood, Summerside and St. Eleanors), and urban incidents had a much higher frequency during hours after midnight than rural incidents. Almost two of three drivers charged by the Summerside municipal police lived outside Summerside, while well over half of drivers charged by the Charlottetown municipal police force lived outside Charlottetown.

More than two thirds of drivers were charged with 'over 80 mg.', and one-quarter were charged with 'refusal'. The relative proportion of 'over 80 mg.' charges among all impaired driving charges increased slightly over the five years, while 'refusal' charges decreased from 32% to 24%. Even with this decrease, the proportion of 'refusal' charges remains substantially higher than the Canada-wide level - 7% of impaired charges in 1986. It is of interest to note that all of the Atlantic provinces have a much higher proportion of 'refusals' than the rest of Canada. In a small number of incidents, charges were also laid for non-impaired offences, including criminal negligence causing death, dangerous driving, other non-traffic Criminal Code offences, and various provincial Highway Traffic Act offences.

Over 90% of charged drivers were convicted, and for those who were charged with two impaired offences - usually 'over 80 mg.' and 'driving while impaired', the second impaired charge was typically withdrawn upon conviction on the first charge.

Sentencing practices have changed dramatically over the five years. In 1983, close to 100% of impaired driving convictions resulted in a fine, most often in the amount of $250, and this practice remained essentially the same in 1984, although the most frequent fine increased to $400. There was a major change in 1985, when judges imposed a one day jail term in addition to a fine in one in eight convictions, and the typical fine increased to $550. By 1986, over two thirds of convicted drivers received a jail term in addition to a fine - usually 1 day in jail and an $800 fine, and one-quarter received a jail term alone, of typically one day. The use of a combined fine/jail term sentence decreased slightly in 1987, and jail terms alone increased to almost one-third of sentences, with the typical jail term length increasing to three days. Other conditions were imposed in fewer than 4% of convictions, and ranged from alcohol treatment to Community Service Orders and restitution (the latter two predominantly ordered in Youth Court).

The sentence for 'refusal' tends to be more severe than for 'over 80 mg.', indicating the court's particular condemnation of refusing to provide a breath sample. 'Refusal' convictions were more likely to receive a jail term, and a larger proportion of the higher fines and longer jail terms than convictions for 'over 80 mg.'.

The courts imposed a driving prohibition of more than six months on fewer than 5% of drivers. (All persons convicted of impaired driving are automatically suspended for six months under the provincial Highway Traffic Act for a first offence, and longer for subsequent convictions in a three-year period.) The majority of prohibition orders were for a period of up to 12 months, although one in ten were over 30 months or more.

The decrease in police detected impaired driving is of such substantial size that it can be assumed with almost certainty that the actual incidence of impaired driving is on the decrease. It remains the largest single criminalized activity coming to police attention, and is still clearly a serious social problem. However, it appears that education and federal legislative initiatives, together with education programs on a national and local level, are having an effect.

The high level of impaired driving charges among young drivers is of particular concern, especially given their higher rate of involvement in accidents, and the accompanying risk of injury. However, the small but nevertheless noticeable decrease in impaired driving charges among 16 to 19 year olds is a welcome finding. It suggests that prevention and education programs targeted at young drivers, including the work of young people themselves (particularly through Students Against Driving Drunk), are leading to a change of attitudes and behaviour that will reduce the level of impaired driving, and its social costs, even further in the coming years.

I. PURPOSE OF REPORT

This study examines the extent and nature of police-detected impaired driving on Prince Edward Island during the five year period 1 January 1983 to 31 December 1987, based on charges laid by police.

The study was conducted at the direction of the P.E.I. Advisory Committee on Impaired Driving, as one of the activities of the P.E.I. Safe Driving Project, a provincially-sponsored project with funding assistance from the federal Department of Justice. The Advisory Committee was set up to develop a coordinated intervention approach to drinking and driving. One of the Terms of Reference of the Project's Advisory Committee was 'to research and develop a demographic profile and statistical analysis of the drinking driver in Prince Edward Island, bringing attention to significant trends/variables where possible over the past five to seven years'.

This report provides a description of incidents in which impaired driving charges were laid, and the court outcome of these charges, and describes annual changes in charges laid and court penalties, in order to assess the impact of Criminal Code amendments to impaired driving offences and penalties, which came into effect on 4 December 1985. Where appropriate, comparisons are also made with national trends, and with the findings of a 1971-72 study of impaired driving on Prince Edward Island.

II. METHODOLOGY

The study surveyed incidents in which a Criminal Code charge was laid for impaired driving during the five-year study period.[1] Prior to December 1985, impaired driving offences included 'driving while impaired', 'driving with more than 80 mgs. of alcohol in the blood', and 'failing or refusing to provide a breath sample'. The offences were reorganized but remained essentially the same following Criminal Code amendments in December 1985 (the major changes being an increase from $50 to $300 as the minimum fine for a first offence, and higher maximum penalties). Appendix A describes the impaired driving Criminal Code offences and penalties before and after the amendments.

---

[1] The RCMP provided a list from their centralized data base of incidents in which an impaired driving charge was laid, for each RCMP detachment. For approximately 205 listed

i) Source of Information

The RCMP are responsible for law enforcement in all areas of P.E.I., except the four municipalities of Charlottetown, Kensington, Summerside and St. Eleanors, which each have a municipal police force. During the period of the study, the RCMP maintained eight year-round detachments, as well as a detachment at Cavendish during the summer months.

Police files at all RCMP detachments across the Island, and at the four municipal police forces, served as the primary source of information. Each police file corresponded to an incident, and information was collected on the incident, the charge(s) laid, the driver charged, and the court outcome of the charge(s). Information was collected on every charge (up to 3) arising out of the incident, whether or not the additional charges were impairment-related.

Where information relating to the court outcome of the charge(s) was not available on police files, a search was made at the Highway Safety Division of the Department of Transportation and Public Works, which maintains records on all persons convicted of a Criminal Code impaired driving offence. In some cases, the Highway Safety Division was

---

incidents, there was no police file available. These included all 1983 files - reported to include 129 incidents - for one RCMP detachment.

also the source for Driver's Licence numbers. These were used to link separate incidents, in order to determine the number of persons who were charged in more than one incident during the study period.

ii) Data Collection

A pilot phase was conducted during December 1987, during which the data collection form was tested on files at the Charlottetown, Kensington and St. Eleanors municipal police forces, and the Charlottetown and Parkdale and Sherwood RCMP detachments, as well as at the Highway Safety Division. Pilot testing was for purposes of ensuring that the form and coding procedures were suited to available information, as well as developing coding consistency among the four data collectors. The pilot phase resulted in some changes to the items included and the format of the Data Collection Form.

Full data collection was carried out during January to March 1988, with researchers reviewing relevant files at each RCMP detachment and municipal force. The majority of data collection was conducted by two persons, with some assistance from the other two persons who had been involved in the pilot testing.

iii) Information Included in the Study

The information that was collected can be divided into four categories, relating to the Incident, the Driver, the Charge, and the Court Outcome. A total of 36 items were included, although in most incidents, only one criminal charge was laid, and only 26 items were relevant (the remaining 10 relating to the charge and court outcome for additional charges). Appendix B describes the items of information that were obtained.

iv) Data Analysis

Data were coded numerically, for entry into the provincial government's computer. Data analysis was conducted with the Statistical Package for Social Sciences (SPSS).

III. IMPAIRED DRIVING INCIDENTS

According to files made available by police units, Criminal Code charges relating to impaired driving were laid in 5,206 incidents during the five-year study period. There were another 129 drivers charged in 1983 (see footnote 1), bringing the five year total to 5,335.[2] In each incident, a person was charged with one or more impaired driving offences, and sometimes other offences. Table 1 presents the number of persons charged each year over the five years.

Table 1

Number of Persons Charged with Impaired Driving Offences P.E.I., 1983 - 1987

	Males		Females		TOTAL	
	No.	%	No.	%	No.[1]	%Change
1983	988	94.7	55	5.3	1,178	-
1984	1,176	94.4	70	5.6	1,250	+6.1
1985	1,056	94.2	65	5.8	1,130	-9.6
1986	869	94.6	50	5.4	921	-18.5
1987	792	93.1	59	6.9	856	-7.1
TOTAL	4,881	94.2	299	5.8	5,335	-27.3[2]

1 Includes 26 persons whose gender was not known.
2 Percentage change from 1983 to 1987.

---

[2] Excluded here are approximately 75 RCMP listed incidents for which no file was available. Unlike the block of 1983 incidents which have been included, the number is small, and incidents were distributed over the five years, so that their exclusion does not significantly affect the overall picture.

Over the five year period, there was a small increase from 1983 to 1984 in the number of persons charged, followed by a decrease each year thereafter. Overall, there was a 27% decrease in the annual number of drivers charged from 1983 to 1987. The five year decrease is higher than the national trend over a similar period. According to information from the Canadian Centre for Justice Statistics, persons charged with impaired driving decreased each year from 1983 to 1986, for an overall decrease of 12.8%. During the five-year period 1982 to 1986, charges increased in four provinces, and decreases in other provinces ranged from 12% in Alberta to 31% in British Columbia.[3]

The largest annual decrease, close to 20%, occurred from 1985 to 1986, although the decreasing trend was already well underway, with a 10% fall from 1984 to 1985.

Despite the decrease over the period under study, P.E.I. continues to have a higher rate of impaired driving than many other provinces. The overall rate for persons charged with impaired driving in Canada, based on the population aged 16 and older, was 65 per 10,000 in 1986.[4] The equivalent rate in 1986 for P.E.I. was 97 per 10,000, the fifth highest rate in Canada.

The number of annual incidents during the period covered in this study is considerably higher than those occurring during 1971-72. A direct comparison cannot be made, because the earlier study provides only the total number of charged drivers for the two years, and includes only charges laid by RCMP detachments and the Charlottetown and Summerside municipal police forces (omitting Kensington and St. Eleanors, as well as Borden and O'Leary, which were policed by municipal forces at that time). However, given the small size of the jurisdictions not included, it can probably be reasonably assumed that at least 95% of all charges were captured in the 1971-72 study.

---

[3] **Juristat.** Canadian Centre for Justice Statistics, September 1987.

[4] **Juristat.** Canadian Centre for Justice Statistics, September 1987.

The RCMP, and Charlottetown and Summerside municipal police charged 1,259 drivers during the two years 1971-72, for an average of 630 drivers charged each year - 26% lower than the lowest annual level (1987) reported above.[5]

IV. DRIVERS CHARGED WITH IMPAIRED DRIVING

The descriptions in the following sections are based on incidents for which a police file was available (i.e. 5,206 of 5,335 incidents in which a driver was charged with impaired driving.

i) Gender

Almost all drivers charged with an impaired driving offence were male, which is consistent with studies across Canada (and elsewhere). Ninety-four percent of drivers were male, and 6% were females. P.E.I.'s Highway Safety Division reports that males comprised 54% of all licensed drivers as of November 1987.

The proportions of males and females charged with impaired driving remained fairly steady over the five years, except for 1987, when there was a small increase in the proportion of females charged - from 5% in 1986 to 7% in 1987.

Overall, females formed a slightly smaller proportion of charged drivers in P.E.I. than across Canada. According to recent data, females accounted for 8% of all persons charged with impaired driving offences in Canada in 1986.[6]

While the increase in female involvement changed only slightly during the period under study, the proportion of females charged shows an almost four-fold increase over 1971-72.[7] Females at that time comprised 1.7% of a total of 1,259 charged drivers during the two years. The change from the early 1970's is consistent with the national trend, with female involvement showing a steady increase over the past two decades.

---

[5] Love, Arnold and Killorn, L.H. **The Impaired Driver in Prince Edward Esland.** Addiction Foundation of P.E.I., 1972, p.14.

[6] **Juristat.** Canadian Centre for Justice Statistics, September 1987.

ii) Age

One-third of charged drivers were under 25 years. The average age was 32 years, similar to that found in other studies, with the youngest drivers charged aged 15 (five males and one female) and the oldest an 84 year old male. Table 2 presents the age and gender of drivers charged with an impaired driving offence.[8]

Younger drivers are over-represented among charged drivers compared to their proportion in the licensed driving population. Two-thirds (66%) of all drivers charged were aged between 20 and 39 years, a slightly higher proportion than has been found in other Canadian studies (61%).[9] Drivers in this age group make up just under half (49%) of all licensed P.E.I. drivers, according to Highway Safety information as of October 1987.

The 20 to 24 age group is most highly over-represented, comprising 25% of charged drivers, compared to 13% of licensed drivers. Drivers aged 16-19 are only slightly over-represented, making up 9% of charged drivers and just over 7% of licensed drivers. The 25-29 year age group comprised 17% of charged drivers and 13% of licensed drivers. Drivers aged 30-39 years were equally represented among those charged and all licensed drivers (24%).

---

[7] See Love, above, p.15.

[8] In Table 2 and all subsequent Tables, percentages have been rounded and do not always add to 100%.

[9] Traffic Injury Research Foundation of Canada (TIRF), **Characteristics of Drinking Drivers.** Federal Department of Justice, Ottawa, 1985, p.131.

Table 2

Age of Persons Charged with Impaired Driving Offences P.E.I., 1983 - 1987

	Males		Females		TOTAL[1]	
Age	No.	%	No.	%	No.	%
15	5	0	1	0	6	0
16-19	457	9	29	10	490	9
20-24	1,239	25	51	17	1,296	25
25-29	836	17	53	18	894	17
30-34	628	13	40	13	671	13
35-39	525	11	34	11	561	11
40-44	334	7	29	10	364	7
45-54	465	10	40	13	507	10
55-64	268	6	18	6	289	6
65 & over	98	2	3	1	101	2
Not known	26	1	1	0	27	1
TOTAL	4,881	100	299	100	5,206	100

Average Age 32 years **Range** 15-84 years

1 Includes 26 drivers whose gender could not be determined from file information.

Conversely, drivers in every older age group were under-represented in impaired driving incidents. Appendix C provides Highway Safety Division data on age and gender for the 1987 licensed driving population.

A significant finding in regard to age distribution was that 16 to 19 year olds were the only group to show a noticeable decrease in their proportion among all drivers charged over the five years, down from 10.6% in 1983 to 7.2% in 1987. While the absolute numbers decreased in every age group except those aged 65 and over, all other age groups showed a change in proportion of less than 2% in 1987 over

1983. For most age groups, there was a very small increase, the largest being an increase of 1.6% among drivers aged 65 and older.

Female drivers tended to be older. One in six females who were charged was in the 20-24 year age group, compared to one in four males, while 30% were 40 or older, compared to 25% of males.

In 1971-72, a greater proportion of charged drivers were older than during the past five years. Age groupings in the earlier study are slightly different than those here (which were selected to match age groupings used by the Highway Safety Division). In the earlier study, 55% of drivers were in the 21 to 40 age group, with another 15% in the 16 to 20 age group. If it can be assumed, for purposes of comparison, that one-third of those in the younger group were aged 20, the proportion of those aged 20 to 40 would be 60%, compared to 67% during 1983 to 1987. Drivers aged 21 to 25 made up 23% of charged drivers in 1971-72 compared to 25% for drivers aged 20-24 in 1983-87, while the 26 to 30 age group made up 12% of charged drivers in 1971-72, compared to 17% for drivers aged 25-29 in 1983-87. In the older age groups, 30% of male drivers, and 43% of female drivers were older than 40 - both higher than that found in the present study. The average age in 1971-72 was 34 years, with ages ranging from 16 to 85 years.[10]

iii) Drivers Involved in Repeat Incidents

Over the five year period, 741 (20%) of 3,655 drivers, or one in five, were involved in more than one incident resulting in an impaired driving charge.[11] Table 3 shows the number of separate incidents in which the same driver was involved.

---

[10] Love, Arnold and Killorn, L.H. **The Impaired Driver in Prince Edward Island.** Addiction Foundation of P.E.I., 1972, p.15.

[11] The proportion of recidivists is likely to be slightly higher than 20%. The driver's licence number was used to link separate incidents, and of all items, was the most likely to be incorrectly noted, either in the police file or

There were 548 drivers for whom information about repeat incidents could not be determined. Among these were 483 drivers with an out of province licence, and it can probably be reasonably assumed that the great majority of these were not involved in repeat incidents in P.E.I.

Table 3

Repeat Involvement in Impaired Driving Incidents
P.E.I., 1983 - 1987

Incidents	Drivers	
	No.	%
1	2,914	80
2	543	15
3	151	4
4	35	1
5	8	*[1]
6	3	*
7	1	*

1 Less than 0.5 percent.

The proportion of repeat impaired drivers in this study is similar to findings elsewhere, which have found that drivers with previous convictions comprise about 15% (range 10-38%) of charged drivers.[12] The proportion of P.E.I. drivers who have had more than one charge during the full length of their driving career would almost certainly be higher than was found in this five year study. Highway

---

at the time of coding, because of its length. Missing data for 1983 is also likely to lead to some underestimation.

[12] TIRF, **Characteristics of Drinking Drivers.** Department of Justice Canada, 1985, p.44.

Safety Division information indicates that 44% of drivers convicted of an impaired driving offence in 1986 had had at least one previous conviction at some time since records have been kept (approximately 20 years). These figures were based on drivers who had at least two convictions within any five year period, as records are removed for drivers who have a conviction-free record for five years.

iv) Status of Driver's Licence

Under the P.E.I. Highway Traffic Act, drivers who are convicted of a Criminal Code impaired driving offence automatically lose their licence for six months following a first offence, and for longer periods for additional offences during a three-year period. (Since December 1985, the court also orders a period of prohibition, but this has generally been shorter than the provincially-mandated suspension period.) It is of interest to know the extent to which suspended drivers were involved in impaired driving incidents during the period of this study.

According to available information, the great majority (89%) of drivers were driving with a valid licence at the time that they were charged with impaired driving. Three hundred and ninety-seven drivers (8%) were driving while suspended at the time they were charged, and 57 of these had also never had a licence or their licence had expired. A further 202 (4%) were driving without a valid licence (but were not prohibited) at the time of the incident. In addition to an impairment charge, 19 persons were charged with 'driving while prohibited', 17 of them since the 1985 Criminal Code amendments. (The amendments included a revision to this offence in response to successful court challenges of the previous law concerning the legality of imposing a Criminal Code offence for failing to respect a provincial order).

V. DESCRIPTION OF IMPAIRED DRIVING INCIDENTS

i) Reason for Apprehension

The police report of the incident was reviewed in order to determine the reason why the police initially became involved. Of all the information collected, this was the only item that had to be subjectively decided by the data collectors. In most cases, the reason was obvious from the police description. In those cases where a reason was not stated, but it was clear that the police had stopped the driver, the incident was coded as 'apparent impairment' unless there was some other information in the report to clearly indicate that this was not the case. It is likely that in some of these incidents the police officer's attention was first drawn by a driving offence such as speeding. In addition, depending on circumstances, the police officer may obviously suspect that a driving infraction resulted from impairment, but did not note this in the incident description. A clear distinction can thus not be assumed between these two categories. Table 4 presents the reason for apprehension, for male and female drivers.

In almost 4 out of every 10 incidents, the incident description suggested 'apparent impairment' (e.g. weaving across the centre line) as the reason why the police initially became involved. The second most common reason (27%) was police observation of a driving infraction (e.g. speeding, or failing to stop at a red light). Accidents led to an impairment charge in 14% of incidents.

Table 4

Reason for Apprehension in Impaired Driving Incidents by Gender of Driver, P.E.I., 1983 - 1987

	Males		Females		TOTAL	
Reason for Apprehension	**No.**	**%**	**No.**	**%**	**No.**	**%**
Apparent impairment	1,892	39	119	40	2,020	39
Driving or vehicle offence	1,315	27	67	22	1,389	27
Accident - 1 vehicle[1]	338	7	30	10	369	7
Accident - >1 vehicle	335	7	30	10	367	7
Called to scene[2]	582	12	23	8	610	12
Checkpoint	148	3	9	3	157	3
In care of vehicle[3]	262	5	19	6	282	5
Not known	9	0	2	1	12	0
TOTAL	4,881	100	299	100	5,206	100

[1] Involved only the charged driver's vehicle.
[2] Other than an accident.
[3] Vehicle was not being driven, but driver was at wheel.

In the two most frequent circumstances noted above, together with 'in care of vehicle', police involvement was the result of routine road patrol enforcement. This accounted for just under 70% of all incidents.

The distribution of incidents by reason for apprehension reported here is fairly similar to that reported by the Traffic Injury Research Foundation, which analysed data provided by the federal Department of Justice. They looked at incidents in which a blood alcohol reading had been taken and an impairment charge laid - a slightly different group to that in Table 4, which includes all impaired incidents, whether or not a blood alcohol reading was taken. They found that 74% of incidents resulted from routine enforcement, while 21% involved an accident, and 5% arose out of a random road check (checkpoint).[13]

There are very few differences to be noted in regard to gender. A smaller proportion of female drivers were involved in incidents where a driving offence led to the impairment charge, or where the police were called to the scene. On the other hand, female drivers were more likely than males to be involved in an accident which led to a impairment charge (although they were not more likely to cause death of injury - see below).

Detailed information on circumstances of apprehension is not available for 1971-72.

ii) Accidents, Fatalities and Injuries

One in seven (736 - 14%) incidents involved an accident. Half of these involved only the charged driver's car. In 1971-72, 13% of charges resulted from an accident - a very similar proportion to that during 1983 to 1987. It was also found in the earlier study that a higher proportion of females than male drivers who were charged with impaired driving had been involved in an accident (24% of females, and 13% of male drivers).

There were eight deaths and 200 injuries requiring hospital attention in 148 separate incidents. In just under half of these, the only injury was to the driver charged with impaired driving. The greatest number of casualties occurred in an incident in which 4 persons died in a car involved in an accident with the charged driver, and 2 others in the second car, as well as the charged driver, were injured. Table 5 describes the extent of fatalities and injuries in separate incidents.

---

[13] TIRF, **Characteristics of Drinking Drivers.** Department of Justice Canada, 1985, p.129

Table 5

Impaired Driving Incidents Involving an Injury or Fatality P.E.I., 1983 - 1987

Type of Casualty	No. of Incidents
Driver injured	73
Driver and 1 other injured	14
Driver and >1 other injured	10
Driver injured and 1 fatality	1
Driver and >1 other injured, 1 fatality	1
Driver and >1 other injured, >1 fatality	1
1 fatality	2
1 other injured	37
>1 other injured	9

Figures provided by the P.E.I. Highway Safety Division indicate that there were 16,499 collisions during the five year period 1983-1987, including 126 in which there was at least one fatality. Overall, there were 146 deaths, and 4,437 injuries during the period. These figures include all accidents involving one or more vehicles where an injury or fatality occurred or where damage was over $300 (or over $500 since 1986). Appendix D provides the annual number of fatalities, injuries and collisions on Prince Edward Island during the five year period.

Based on these figures, very few accidents result in an impaired driving charge, although it cannot be assumed that impairment was not a factor. In some accident situations, there may be evidence of impairment, but only a more serious charge such as criminal negligence is laid, and these incidents are not included in the present study. Under the amended impaired driving offences, the section which prescribes the penalties includes higher maximum penalties where impairment has caused bodily harm or death to another person. However, the section under which an impaired person is charged does not distinguish situations involving death or injury, and so this factor is not evident in looking at impaired charges.

In the present study, there were 2 incidents in which, in addition to an impaired charge, a charge of criminal negligence causing death was laid, and 8 in which a criminal negligence charge was laid. In 44 incidents, the impaired charge was coupled with a charge of dangerous driving.

Just under half (47%) of charged drivers who were injured were under 25 years, a proportion well above the representation of this age group among all charged drivers (34%). The only other age group which was over-represented among injured drivers were those aged 55 to 64 years. Of 100 other persons injured, 34 were injured in incidents where the driver was under 25 years.

The proportions of male and female injured drivers were very similar to their representation among all charged drivers (although females were slightly higher, at 7% compared to 6% overall). All fatalities occurred in incidents involving male drivers. Incidents involving male drivers also resulted in injury to 90 other persons, while 8 others were injured in incidents involving female drivers - a distribution again very close to that for males and females among all charged drivers. Relative to their involvement in accidents, female drivers were associated with a smaller proportion of injuries than males, indicating that accidents involving female drivers charged with impairment are less serious in terms of casualties than those involving impaired male drivers.

iii) Blood Alcohol Level

Blood alcohol readings were obtained from 3,578 drivers. The lowest reading was 70 mg. and the highest was 380 mg., with an average level of 164 mg. There were 7 incidents in which the driver had a BAC reading of less than

100 mg., and in two of these (including the 70 mg. reading), the charge laid was 'impaired' rather than 'over 80 mg.' Table 6 presents BAC levels, by gender of driver.

Table 6

Blood Alcohol Concentration in Impaired Driving Incidents by Gender of Driver, P.E.I., 1983 - 1987

	Males		Females		TOTAL	
BAC (Mgs)	**No.**	**%**	**No.**	**%**	**No.**	**%**
Up to 100	232	7	8	4	244	7
101-150	1,421	43	103	48	1,531	43
151-200	1,019	31	70	33	1,095	31
201-250	486	15	29	14	517	14
251-300	150	5	4	2	154	4
301-350	30	1	1	1	31	1
351 & over	6	0	0	0	6	0
TOTAL	3,344	100	215	100	3,578	100

Fifty percent of drivers had a BAC level of more than 150 mg., and 20% had a BAC level in excess of 200 mg. A smaller proportion of female drivers had BAC readings at the higher levels. BAC levels are lower than those reported for Canada-wide charges. Department of Justice data on 20,000 charged drivers in Canada in 1982 revealed an average BAC level of 172 mg., with 25% of offenders between 80 mg. and 150 mg., and 30% with a BAC level in excess of 200 mg.[14] In 1971-72, the average BAC level was 182 mg. for impaired driving charges in P.E.I.

A common finding in studies of impaired driving is that higher BAC levels are more likely to be found among older drivers (except for the very oldest), while the youngest drivers will be more represented at the lower BAC levels, and this trend was found in 1971-72. Table 7 indicates that this pattern was also found in the present study. A considerably higher proportion of the youngest age group compared to older age groups had BAC readings up to 100 mg., while a higher proportion of the older age groups (40-64 years) are in the higher BAC groupings.

---

[14] TIRF, **Characteristics of Drinking Drivers.** Department of Justice Canada, 1985, p.128.

Table 7

Blood Alcohol Concentration by Age of Driver
P.E.I., 1983 - 1987

Age	Up to 100		101-200		201-300		301+	
	No.	%[1]	No.	%[1]	No.	%[1]	No.	%[1]
15-19	58	(14)	336	(82)	15	(4)	0	-
20-24	80	(8)	801	(82)	100	(10)	1	(0)
25-29	36	(6)	439	(74)	110	(19)	6	(1)
30-34	21	(5)	278	(68)	107	(26)	5	(1)
35-39	13	(4)	217	(61)	118	(33)	10	(3)
40-44	9	(4)	160	(68)	60	(26)	6	(3)
45-54	14	(5)	194	(63)	94	(31)	6	(2)
55-64	7	(4)	125	(65)	58	(30)	3	(2)
65 & over	6	(8)	61	(82)	7	(10)	0	-
Unknown	0	-	15	(88)	2	(12)	0	-

[1] Percentages show proportion within the age group.

BAC levels were at higher levels in a greater proportion of incidents where the charged driver was injured - 71% over 150 mg. compared to 50% for drivers not injured. Of 54 injured drivers with a BAC of more than 150 mg., 14 were involved in incidents which also resulted in injury or fatality to others. The proportion of injured drivers with a high BAC level is considerably higher than that found in other studies. A 1985 review by the Traffic Injury Research Foundation found that 19% of injured drivers had BACs above 150 mg. in two Canadian studies which examined the BAC levels of drivers who reported to hospitals with injuries following traffic accidents.[15] (It is not clear whether these drivers had been charged with impairment, and so the group may not be directly comparable.) Looking at all incidents where there was a fatality or injury - to the driver or others, the same proportion (70%) of charged drivers had a BAC level of over 150 mg. as was found where the driver alone was injured. A BAC reading was not available on one-quarter of charged drivers where a fatality or injury occurred.

iv) Time of Day at which Incident Occurred

Almost two out of three (61%) of incidents occurred between 9 p.m. and 3 a.m., with 20 percent occurring between midnight and 1.30 a.m. Table 8 presents the number of charges at different time periods over 24 hours.

The distribution of drivers by time of day followed a similar pattern for both males and females. It is notable, however, that the proportions of female drivers involved in incidents during the hours from 9 a.m. to 9 p.m. were slightly but consistently lower than those for male drivers, suggesting that females are less likely to drink and drive during the day, or are less likely to be apprehended.

---

[15] TIRF, **Characteristics of Drinking Drivers.** Department of Justice Canada, 1985, p.26.

Table 8

Time of Day of Impaired Driving Incidents by Gender of Driver, P.E.I., 1983 - 1987

	Males		Females		TOTAL[1]	
	No.	%	No.	%	No.	%
Midnight to 3 a.m.	1,831	38	128	43	1,972	38
3 to 6 a.m.	242	5	22	7	265	5
6 to 9 a.m.	45	1	6	2	52	1
9 a.m. to Noon	112	2	4	1	117	2
Noon to 3 p.m.	275	6	11	4	287	6
3 to 6 p.m.	469	10	21	7	492	10
6 to 9 p.m.	757	16	36	12	795	15
9 p.m.to Midnight	1,139	23	70	23	1,214	23
Unknown	11	0	1	0	12	0
TOTAL	4,881	100	299	100	5,206	100

[1] Includes 26 drivers whose gender was not known.

In considering the variation in number of charges during different time periods over the 24-hour day, it should be kept in mind that the level of detection is influenced by the allocation of police resources. While it is undoubtedly the case that drinking and driving occurs more frequently during night-time hours, it is likely that impaired drivers are more visible during these hours than during daytime hours because there are fewer vehicles on the roads, and police place a greater focus on this activity at that time. The police expectation of impaired driving leads to increased surveillance, and this in turn may increase the level of detection, so that each has some affect on the other.

v) Month of Incident

As would be expected, given the increase in drivers on the road, the greatest number of incidents occurred during the summer months of June, July and August, with May, September and October also recording similar high levels. The winter months of December, January and February recorded the lowest level of incidents. Table 9 shows the month in which the impaired driving incident occurred in relation to whether the driver had a P.E.I. or out of province licence.

It should be kept in mind that out of province figures will include some recently-resident P.E.I. drivers who have not changed their out of province licence at the time of the incident. However, it would be reasonable to assume that these drivers would be relatively evenly distributed throughout the year's figures, and not affect the overall picture.

The increase in incidents in the traditional holiday months is accompanied by an increase in drivers with an out of province licence. However, this increase cannot be fully attributed to out of province drivers, as the number of incidents among P.E.I. licensed drivers is also higher during these months. This is probably accounted for by a combination of an increase in local drivers on the road, together with an increase in drinking and driving during the holiday months.

Table 9
Month of Impaired Driving Incidents and Location of Driver's Licence, P.E.I., 1983 - 1987

	P.E.I.		Out of Province		Total	
	No.	%[1]	No.	%[1]	No.	%[2]
January	225	93	16	7	253	5
February	253	94	16	6	281	5
March	347	95	19	5	384	7
April	340	93	26	7	391	8
May	416	88	56	12	506	10
June	525	90	56	10	610	12
July	478	84	92	16	600	12
August	436	84	84	16	539	10
September	396	92	33	8	452	9
October	438	90	47	10	513	10
November	351	95	20	5	387	7
December	253	93	18	7	290	6
TOTAL	4,458	90	483	10	5,206[3]	100

[1] Proportion within month.
[2] Proportion of total.
[3] Includes 265 incidents in which the location of the driver's Licence was coded as not known. In almost all cases, the driver did not have a valid licence.

In 1971-72, there was a similar distribution of charged drivers by month, with the highest levels recorded in July, August and October, and the lowest level recorded in February.

vi) Incidents in relation to Police Jurisdiction

Information on impaired driving incidents was obtained from 13 police jurisdictions - 4 municipal police forces and 9 RCMP detachments. The number of incidents resulting in an impaired charged handled by each jurisdiction, for each of the five years, is shown in Appendix E.

Just under one-quarter (24%) of all incidents resulting in an impaired driving charge over the five years were dealt with by the RCMP Charlottetown (rural) detachment. Almost another quarter (22%) fell in the jurisdiction of the Charlottetown or Summerside municipal police forces. These three police jurisdictions together accounted for almost half of all impaired driving incidents in which a charge was laid. Other jurisdictions which dealt with more than five percent of incidents were the RCMP Summerside (rural) and Alberton detachments (both with 7%).

In terms of annual incidents, only seven of 18 separate reporting units[16] follow the overall trend of annual decreases from 1984 onwards. Among the larger units, only RCMP Charlottetown (rural) reported this pattern, but with a smaller decrease from 1985 to 1986 than was found for all incidents. However, all of the larger reporting units, and all but Souris and Kensington among the smaller units, charged fewer drivers in 1987 than in 1983.

vii) Driver's Address in Relation to Jurisdiction of Police

One of the questions that arises in relation to enforcement of the impaired driving laws is the extent to which the resources of urban-based police forces are being expended on drivers who live outside their jurisdiction. This is a particular concern in regard to impaired driving, because of the size of the problem, and the fact that drinking establishments tend to be located in urban areas.

In order to determine the extent to which this is the case, the address of the driver was obtained in incidents where the charge was laid by the Charlottetown or Summerside municipal police force. (It should be noted that the address was usually that provided on the driver's licence, which is not necessarily the current address of the driver.)

---

[16] Several RCMP detachments divide their jurisdiction into two areas for enforcement and reporting purposes. All areas are listed separately in Appendix D.

Of 588 incidents involving the Charlottetown municipal police force, 247 (42%) involved a driver whose reported address was within their jurisdiction. In another 30% of incidents, the driver's address was in an area immediately adjacent to the Charlottetown municipal jurisdiction.

The Summerside municipal police force laid impaired charges in 591 incidents, and in 209 (35%), the address given by the driver was within their jurisdiction. In another 20% of incidents, the driver's address was in one of the immediately adjacent areas policed by the RCMP, and in 9% of incidents, the driver resided in St. Eleanors municipality.

For both these police forces, well over half of their impaired driving charges involved drivers living outside their jurisdiction.

viii) Urban and Rural Incidents

One of the questions that arises in relation to impaired driving in terms of allocation of enforcement resources, prevention and education is whether the problem occurs more frequently in urban or rural areas.

During data collection, all incidents occurring within areas policed by the RCMP were coded according to a location code used by the RCMP, and separate codes were assigned for incidents falling within areas covered by municipal forces. In all, there were 44 possible location codes. For purposes of analysis, urban areas were identified as Charlottetown, Parkdale, Sherwood, Summerside and St. Eleanors. All other areas were considered to be rural.

Thirty-five percent (1,802) of incidents occurred in the urban areas described above, and 65% (3,399) in rural areas. Among urban area incidents, the highest number occurred in Charlottetown (610 - 34%), followed by

Summerside, with 591 (33%) incidents. Among rural incidents, the highest number (491 - 14%) occurred along the TransCanada Highway between Charlottetown and Cornwall. Table 10 presents the number of incidents for each of the urban areas, and those rural areas with more than 100 incidents during the five years.

Table 10

Urban/Rural Distribution of Impaired Driving Incidents
P.E.I., 1983 - 1987

	No.	% of Total
Urban		
Charlottetown	610[1]	12
Summerside	591	11
Sherwood	263[1]	5
Parkdale	227	4
St. Eleanors	111	2
Rural		
TransCanada West to Cornwall and area	491	9
Souris and area	409	8
Montague and area	380	7
Alberton and area (excl O'Leary & Tignish)	287	5
Borden and area	202	4
Hwy 2 west to Hunter River and area	199	4
West of Summerside	190	4
TransCanada East to Mt. Albion and area	171	3
Hwy 2 west Hunter River to Springfield and area	112	2

[1] Includes a small number of incidents where the charges were not laid by the police force in that jurisdiction (less than 0.5%).

In 1971-72, 9% of all impaired driving charges were laid by the Charlottetown municipal police force, 12% by the Summerside municipal force, and the remaining 79% by RCMP detachments (all of which were considered to be rural-based). The proportion of charges laid by the Charlottetown municipal police force is slightly higher for 1983-87 than it was in 1971-72, while the proportion for the Summerside municipal police force is lower by 1%. Changes to the rural and urban population, and to police unit structure on the Island since 1971-72 prevent further comparison between earlier and 1983-87 data.

An analysis was conducted of urban or rural incidents during 1983 to 1987 in relation to blood alcohol level, and no notable differences were found, i.e. the distribution of BAC levels was very similar for both urban and rural incidents. There were also no notable urban and rural differences in regard to the reason for apprehension.

Some differences were found in terms of time of incident. Among urban incidents, 49% occurred between midnight and 3 a.m. compared to 32% of rural incidents during these hours, and the proportion of urban incidents continued to be slightly higher than for rural incidents from 3 a.m. to 7.30 a.m. During every other time period, a consistently higher proportion of all rural incidents occurred relative to the proportions for urban incidents, although the differences were small.

VI. CHARGES LAID IN IMPAIRED DRIVING INCIDENTS

The descriptions in this section are based on 5,206 incidents for which a police file was available (i.e. excluding 129 incidents in 1983 that are included in Table 1).

The great majority (88%) of incidents resulted in a single charge for an impaired driving offence. In 569 incidents (11%), drivers were charged with two offences with the second offence also being an impaired driving charge in 57% of these incidents. In 63 incidents, at least three charges were laid. Overall, a total of 5901 charges were laid in 5206 incidents (not including charges beyond three - estimated to occur in fewer than 15 incidents).

In addition to the impaired driving charges of 'driving while impaired', 'over 80 mg' and 'refusing the breathalyser or Alert', charges covered a number of other Criminal Code offences, including 'criminal negligence', 'dangerous driving', 'failing to stop', 'driving while prohibited', and 'stolen vehicle', as well as offences under the Narcotics Control Act, the Liquor Control Act, and the Highway Traffic Act. Appendix F shows the charges laid for all incidents, according to whether the incident resulted in one, two or more charges.

The charges of interest here are those relating to impaired driving, and Table 11 presents the number and proportion of impaired driving charges laid each year.[17] It should be kept in mind that the charges do not represent separate incidents, given the multiple charges in about 12% of incidents.

---

[17] Table 11 includes 50 cases where the Criminal Code section did not correspond with the year of the incident (e.g. a pre-December 1985 Criminal Code section for a 1987 incident). In over half of the cases, the incident was coded as having occurred in 1985, and it is possible that police began to use the revised Criminal Code sections before the changes were proclaimed. It was decided, for purposes of analysis, to assume that the offence type was correctly coded but given an incorrect charge code.

Table 11

Impaired Driving Charges, P.E.I., 1983 - 1987

	Impaired			Over 80 mg.			Refusal[1]			TOTAL	
	No.	%[2]	+/-%[3]	No.	%[2]	+/-%[3]	No.	%[2]	+/-%[3]	No.	+/-%[3]
1983	36	3	-	682	65	-	336	32	-	1,054	-4
1984	57	5	*[4]	828	66	*[4]	372	30	*[4]	1,257	*[4]
1985	38	3	-33	784	69	-5	311	28	-16	1,133	-10
1986	143	16	+276	651	71	-17	209	23	-33	1,003	-11
1987	271	32	+89	630	74	-3	207	24	-1	1,108	+10
TOTAL	545	10	+375[5]	3,575	69	-24[5]	1,435	24	-44[5]	5,555	-12[5]

1 Includes refusal of breathalyser or ALERT.
2 Proportion of drivers charged within the year. Proportions do not necessarily add to 100% because of multiple charges.
3 % change in number of charges from previous year.
4 Not estimated because of missing 1983 data.
5 % change in 1987 relative to 1984.

Over the five years, 69% of drivers were charged with 'over 80 mg.', and 24% with 'refusal'. The proportion of drivers charged with 'over 80 mg.' increased slightly but consistently in each year over the five years, from 65% in 1983 to 74% in 1987. Of the three impaired charges, those for 'over 80 mg.' most closely follow the decreasing trend in impaired driving incidents over the period (see Table 1), which is to be expected as it is the most commonly laid charge.

Drivers charged with 'refusal' decreased steadily from 32% in 1983 to 23% in 1986, and then increased slightly to 24% in 1987. However, the proportion of 'refusals' among all impaired driving charges is still well above the national average, indicating that P.E.I. drivers continue to be more likely than drivers across Canada to refuse to submit to the breathalyser. In 1986, approximately 90% of drivers across Canada were charged with 'over 80 mg.', and 7% were charged with 'refusal'.[18] In eight of the provinces and territories, the proportion of 'refusal' charges in 1986 was between 3% and 10%. The proportion in all of the Atlantic provinces was considerably higher, ranging from 18% in Newfoundland to 30% in Nova Scotia.

The total number of charges laid each year has not decreased in the same pattern as was found for the decrease in the annual number of incidents over the five years. This is accounted for by the large increase in 'driving while impaired' charges, beginning in 1986. This reflects a change in RCMP procedure, whereby it became a frequent practice, towards the end of the period under study (and now discontinued), to lay a 'driving while impaired' charge together with a 'refusal' or 'over 80 mg.' charge. This was done in order to maximize the likelihood of conviction, following successful court challenges across the country in previous years on technicalities in police evidence. Once a conviction was obtained on one charge, the second charge (usually 'driving while impaired') was then withdrawn prior to court adjudication.

VII. COURT OUTCOME OF IMPAIRED DRIVING CHARGES

The following sections describe the court judgement (whether convicted or not), and changing patterns in the sentence, fine amount and jail terms ordered for impaired driving offences. Court information was available on 93% of the impaired charges in Table 11. The missing 1983 data should be kept in mind in considering annual changes. It is probably reasonable to assume that the missing cases would be dealt with similarly to those for which information is available in that year, and that the overall picture for 1983 is not affected. However, it is not appropriate to make comparisons in absolute numbers between 1983 and any other year. Comparable court information on impaired driving charges in other jurisdictions in Canada is not available, and no court information was provided in the 1971-72 study of impaired driving in P.E.I.

---

[18] **Juristat.** Canadian Centre for Justice Statistics, September 1987.

i) Court Decision

Of 5,111 impaired driving charges which were laid as the first (or single) charge and for which court information was available, 94% resulted in a conviction, 2% were dismissed, and 1% were withdrawn. Of the remainder, the defendant failed to appear in 1% of hearings, and 1% had not yet been adjudicated at the time of data collection. In 5 cases, there was a successful appeal. The conviction rate for 340 impaired offences laid as the second charge (in all but four cases as a second impaired charge) was 4%, with 82% withdrawn, 3% dismissed, and 10% stayed. (The most frequent offence in this group (89%) was 'driving while impaired'.) There were 8 impaired offences laid as a third charge, and all were withdrawn.

ii) Sentences Imposed Upon Conviction

Table 12 shows the sentence received on conviction for an impaired driving charge, according to the year in which the charge was laid. (In a few cases, charges did not go before court until a year or more after they were laid, but in all cases, court information is presented in relation to the year in which the charge was laid).

Table 12

Sentences for Impaired Driving Offences
P.E.I., 1983 - 1987[1]

	Fine		Jail		Fine & Jail		Other[2]		Total
	No.	%	No .	%	No.	%	No.	%	
1983	951	97	22	2	9	1	1	0	983
1984	1,150	97	30	3	11	0	-	-	1,191
1985	846	82	53	5	126	12	12	1	1,037
1986	58	7	202	24	564	68	6	0	830
1987	43	6	228	31	458	62	11	1	740

[1] Year of offence - not necessarily year of court judgment.

[2] Includes sentences that did not include a fine or jail term (ordered in Youth Court). Sentences which carried a probation order (or any other conditions) in addition to a fine or jail term are included with with fine or jail sentences (including those ordered in Youth Court).

As the figures in Table 12 demonstrate, there has been a dramatic change in sentencing practices for impaired driving convictions over the five years. In 1983, a sentence other than a fine was very rare (fewer than 4% of all sentences). This practice changed in 1985, when judges began to order a jail term in addition to a fine in 12% of all sentences, and a jail term alone in 5% of sentences. This trend continued, but at an increased rate, in 1986, when the proportion of combined fine and jail terms increased to 68%, and 24% of sentences were a jail term alone. The pattern changed again in 1987, when combined fine and jail sentences were ordered less frequently than in the previous year, falling to 62%, while the proportion of jail terms alone continued to increase, accounting for 31% of sentences.

In 143 sentences (fewer than 4%), the fine and/or jail sentence was combined with a probation order and sometimes other conditions. Over the five year period, 34 sentences included a probation order (with the standard conditions) together with a fine, another 25 sentences included a probationary term in addition to a jail term, and in 18 sentences, a probation order was added to a fine and jail term.

A Community Service Order was imposed as part or all of the sentence in 35 convictions, with the majority (21) in 1985 or earlier, and half (17) of them in addition to a fine. Restitution was included in 3 sentences.

The court is empowered to order alcohol treatment upon conviction for an impaired driving offence, and 40 sentences (33 of them prior to 1986) included this requirement. Alcohol treatment was ordered together with a fine in 28 cases, and in addition to a jail term in 8 cases.

Sentences with conditions attached to a fine or jail term were fewer than 5% in any of the five years. The highest proportion (just under 5%) were ordered in 1985, and their proportion remained at a similar level for the next two years.

Appendix G presents the sentence received for each of the three impaired driving charges, over the five years. There were some slight variations from one charge to another, but the trend of a major shift from 1984 in the use of fines, in favour of jail or combined jail and fine sentences, is apparent for each charge. One notable difference is the much larger proportion of jail terms in all years, but particularly in 1986 and 1987, for 'refusal' convictions compared with convictions for 'over 80 mg.'. It appears that a jail sentence was used to express the court's particular condemnation of those who refused to submit to the breathalyser. The difference in sentencing for these two offences is especially evident in the longer jail terms for 'refusal' (see below). A less significant difference is the larger shift away from fines in 1985 for 'driving while impaired' compared to 'over 80 mg.' and 'refusal', and a greater use of combined fine and jail terms for this charge.

iii) Amount of Fines

Over the five years, the fine amount most frequently imposed consistently increased, from $250 in 1983 to $800 in 1986, and remained at $800 the following year. In 1983, two out of three fines were no more than $400, but the proportion of smaller fines steadily decreased over the years. By 1986, more than 9 out of 10 fines were over $600. The use of larger fines increased again in 1987, with one in two fines over $800. Table 13 presents the distribution of fine amounts over the five years.

There were some differences in the amount of the fine imposed for conviction on 'refusal' compared to conviction on 'over 80 mg.', with a tendency over the years for 'refusal' convictions to receive a smaller proportion of the lower fines.

It is notable that in every year the level of fine most frequently ordered was considerably higher than the legally-required minimum, and the median fine - above and below which fell half of all fines - was even higher in some years. In absolute terms, the difference between the legal minimum and the amount ordered increased over the five years, from $200 in 1983 when the legal minimum was $50, to $500 in 1985 and 1987 when the legal minimum was $300.

Table 13

Fines Imposed for Impaired Driving Convictions
P.E.I., 1983 - 1987[1]

	Amount of Fine				
	Up to $400	$401-600	$601-800	$801-1000	$1000+
1983					
Impaired	16	4	0	0	3
Over 80 mg.	414 (65)	138 (22)	41 (6)	25 (4)	19 (3)
Refusal	195 (66)	55 (19)	12 (4)	13 (4)	22 (7)
Total (%)[2]	**625 (65)**	**197 (21)**	**53 (6)**	**38 (4)**	**44 (5)**
Total No. 957		**Range**	$50[4]-$2,000	**Mode[3]**	$250
1984					
Impaired	9	22	6	4	6
Over 80 mg.	328 (41)	286 (36)	71 (9)	57 (7)	50 (6)
Refusal	110 (34)	110 (34)	23 (7)	33 (10)	48 (15)
Total (%)[2]	**447 (38)**	**418 (36)**	**100 (9)**	**94 (8)**	**104 (9)**
Total No. 1,163		**Range**	$50[4]-$2,000	**Mode[3]**	$400
1985					
Impaired	3	11	5	6	1
Over 80 mg.	91 (13)	358 (52)	112 (16)	111 (16)	22 (3)
Refusal	31 (12)	119 (46)	34 (13)	65 (25)	8 (3)
Total (%)[2]	**125 (13)**	**488 (50)**	**151 (15)**	**182 (19)**	**31 (3)**
Total No. 977		**Range**	$100[4]-$2,000	**Mode[3]**	$550
1986					
Impaired	0	3	21	21	1
Over 80 mg.	5 (1)	12 (3)	301 (65)	138 (30)	4 (1)
Refusal	0	1 (1)	77 (70)	32 (29)	0
Total (%)[2]	**5 (1)**	**16 (3)**	**399 (65)**	**191 (31)**	**5 (1)**
Total No. 616		**Range**	$100[4]-$1,600	**Mode[3]**	$800
1987					
Impaired	1	1	10	16	0
Over 80 mg.	4 (1)	3 (1)	188 (50)	181 (48)	3 (1)
Refusal	4 (4)	0	40 (43)	49 (52)	1 (1)
Total (%)[2]	**9 (2)**	**4 (1)**	**238 (48)**	**246 (49)**	**4 (1)**
Total No. 501		**Range**	$75[4]-$4,800	**Mode[3]**	$800

[1] Year of offence - not necessarily year of court sentence.

[2] ( ) Percentage within each category for the year.

[3] Fine amount most frequently ordered.

[4] Fine received in Youth Court.

iv) Length of Jail Terms

The use of jail terms for impaired driving convictions, and their length, has changed considerably over the five years - see Table 14. In 1983, very few jail terms were imposed. When they were, they were longer than is now the common practice, and most probably imposed because the driver had had previous convictions. There was a small increase in jail terms in 1984, when very short terms began to be ordered. In 1985, the number of jail terms increased three-fold, with all of the increase resulting from a greater use of short terms, and a 1 day term became the most frequently imposed length.

It was in 1986, however, that the use of jail sentences changed most dramatically. The number of jail terms again increased three-fold, with almost half of them under 4 days, compared to one in four in 1985. A greater number of longer terms were also ordered, although their proportions are lower than in previous years because of the large number of very short terms. The following year there was another change, with the most commonly ordered jail term increasing to 3 days and a large increase in jail terms between 4 and 10 days compared to the previous year.

Since 1985, when jail terms began to be imposed with frequency, convictions for 'refusal' have consistently received a higher proportion of longer terms in comparison with convictions for 'over 80 mg.'.

Overall, for all impaired driving charges, the trend over the five years has been a dramatic increase in the imposition of jail terms of very short term.

Table 14

Jail Terms Imposed for Impaired Driving Convictions
P.E.I., 1983 - 1987[1]

	No. of Days 1-3	 4-10	 11-30	 31-60	 61-90	 90+
1983						
Impaired	-	-	-	-	-	1
Over 80 mg.	-	-	8	3	1	2
Refusal	-	-	5	2	4	1
Total (%)[2]	**0**	**0**	**13 (48)**	**5 (19)**	**5 (19)**	**4 (15)**
Total No.	27	**Range**	14-180 days		**Mode[3]**	30 days
1984						
Impaired	-	-	1	-	1	-
Over 80 mg.	3	3	7	1	-	4
Refusal	-	2	9	4	5	2
Total (%)	**3 (7)**	**5 (12)**	**17 (40)**	**5 (12)**	**6 (14)**	**6 (14)**
Total No.	42	**Range**	3-180 days		**Mode[3]**	14 days
1985						
Impaired	1	3	2	2	-	1
Over 80 mg.	34 (31)	19 (17)	36 (33)	6 (6)	8 (7)	6 (6)
Refusal	7 (12)	9 (15)	20 (33)	8 (13)	7 (12)	9 (15)
Total (%)	**42 (25)**	**31 (17)**	**58 (33)**	**16 (9)**	**15 (8)**	**16 (9)**
Total No.	178	**Range**	1-999 days		**Mode[3]**	1 day
1986						
Impaired	18	4	15	6	4	4
Over 80 mg.	293 (53)	98 (18)	110 (20)	20 (4)	17 (3)	14 (3)
Refusal	39 (23)	38 (22)	51 (30)	15 (9)	22 (13)	5 (3)
Total (%)	**350 (45)**	**140 (18)**	**176 (23)**	**41 (5)**	**43 (6)**	**23 (3)**
Total No.	773	**Range**	1-365 days		**Mode[3]**	1 day
1987						
Impaired	6	17	11	3	3	-
Over 80 mg.	152 (30)	156 (31)	111 (22)	40 (8)	25 (5)	23 (5)
Refusal	17 (12)	46 (31)	44 (30)	15 (10)	13 (9)	12 (8)
Total (%)	**175 (25)**	**219 (32)**	**166 (24)**	**58 (8)**	**41 (6)**	**35 (5)**
Total No.	694	**Range**	2-180 days		**Mode[3]**	3 days

[1] Year of offence - not necessarily year of court sentence.
[2] ( ) Percentage within each category for the year.
[3] Jail term most frequently ordered.

v) Driving Prohibition Orders

The court ordered a driving prohibition period of more than six months for 213 drivers - in fewer than 5% of convictions. (There were cases in which the court ordered a shorter period, but this information was not included in the study, as all persons convicted of an impaired driving offence are automatically suspended for six months under the provincial Highway Traffic Act for a first conviction.)

Just over half (56%) of court prohibition orders over 6 months were for periods up to 12 months; another 20% were over 12 and up to 18 months, and 14% were up to 24 months. Twenty convicted drivers (9%) were prohibited for 30 or 36 months, and one driver received a prohibition order of 5 years.

Of 50 drivers who were prohibited from driving for 24 months or more, information on repeat charges during the 5 year period could be determined on 45 drivers (there was no driver's licence number available for the remaining five). Thirty-seven (82%) were charged in more than one incident during the five years compared to 20% among all charged drivers, and seventeen had more than three separate incident charges. The driver who received a five year prohibition was convicted of criminal negligence causing death, and criminal negligence causing bodily harm, as well as impaired driving.

Almost 90% of prohibition orders over six months were made in 1986 and 1987, when they accompanied one in 9 sentences (11%). In 1985, a prohibition order of more than six months accompanied fewer than 3% of sentences (and fewer than 1% in 1983 and 1984).

VIII. DISCUSSION

The incidence of impaired driving coming to police attention in P.E.I. decreased by over 25% between 1983 and 1987, and most rapidly in the last two years. A decrease of this size must almost certainly indicate that the actual incidence of impaired driving is decreasing. The observations of police officers and others during the course of the study were that attitudes and behaviour have changed significantly in recent years, and that for large groups of people, it is no longer acceptable to drink and drive. However, impaired driving remains the largest single criminalized activity coming to the attention of police in the province, and absorbs a large share of the resources of the police, the courts and the jail system.

The decrease in the incidence of impaired driving can be linked to the 1985 Criminal Code amendments, at least in so far as the largest annual decrease occurred from 1985 to 1986. The decreasing trend, however, was already well underway before the law was amended, and can probably be largely attributed to more severe penalties in P.E.I. courts, beginning in 1984, and increasing considerably in severity in 1985, together with changing social attitudes towards drinking and driving. The broad education program conducted in conjunction with the introduction of Bill C.19 (the legislation which proposed amendments to impaired driving offences and penalties) undoubtedly contributed to the change in social attitudes and to the judicial response to impaired driving offences. It is likely that the decrease in impairment charges is due to a combination of all of these factors, interacting with and influencing each other.

In terms of court practices and the 1985 Criminal Code amendments, the same conclusion seems to apply as for impaired driving behaviour. Penalties were far more severe in 1986 and 1987 than earlier, and judges applied the penalties well above the minimum prescribed in the amended laws. However, sentences had begun to increase in severity well before the were proclaimed, and this change presumably reflects the judicial response to a combination of changing social attitudes and the message from Parliament that impaired driving was to be dealt with severely.

A profile can be drawn of the driver who is more likely than not to fit the description of a person charged with an impaired driving offence on Prince Edward Island. This description is based on the characteristics of more than half of the drivers and incidents.

The driver is likely to be a male under 30, without a previous conviction for impaired driving. He will most likely come to the attention of the RCMP on road patrol because of abnormal driving behaviour which doesn't involve injury to himself or others (although the risk is present). The incident will most likely occur during late night hours, on a rural highway, during clear weather months. He will have a blood alcohol concentration of just over 150 mg., be charged with 'driving with over 80 mg. of alcohol', and convicted in court. His sentence will be a fine of at least $800 and a jail term of at least three days in jail.

Impaired driving is an especially serious problem among younger drivers, not only because of the higher incidence, but because younger drivers are more likely than older drivers to risk injury to themselves and others through an accident. There are factors, however, which may tend to inflate the relative involvement of young drivers in impaired driving, as estimated by police charges. These include the possibility that young drivers come more easily to the attention of police, whether or not they are drinking and driving, because they are generally more aggressive and 'risk-taking' on the roads. Once stopped, the chances of being found to be impaired are higher. In other words, older drivers may be just as frequently drinking and driving, but are less likely to draw the attention of the police because their driving is more cautious, and their impairment is more likely to go undetected. The fact that younger drivers who are charged tend to have lower blood alcohol levels than older drivers suggests either that police are more likely to stop younger drivers, or that their driving ability is affected at lower levels of alcohol.

Perhaps the most notable finding of this study was that drivers aged 16 to 19 were the only age group that decreased in proportion among those charged with an impaired driving offence. The decrease was small, but is a sound indication that education and prevention programs targeted at young drivers, and the work of young people themselves, particularly through Students against Driving Drunk, are having an effect.

As has been commonly found in studies of impaired driving, almost all charged drivers are male, although the proportion on female drivers is slowly increasing. While the change may be due to a real increase in females driving after drinking, others factors to be considered are an increase in the proportion of female drivers on the road, and an increase in the likelihood of police apprehending female drivers because of changing social conditions (or some combination of these factors). In this regard, it is relevant to note that the lower level of impaired driving charges against female drivers does not necessarily have any direct relationship to their drinking behaviour. While females overall may drink less, in both frequency and quantity, their lower involvement in impaired driving charges is more likely to be a reflection of the social custom of the male taking the driver role when females and males are in a car together. The fact that a greater proportion of female drivers who are charged are in the older age groups could be accounted for by a greater likelihood among older females to drink and then drive without a male companion, or to drink and drive even when with a male companion, particularly if it is judged that the female has consumed less.

In terms of the high rate of impaired driving charges in P.E.I., there are features about lifestyle here that perhaps have a particular effect on the incidence of impaired driving. The majority of the population live in rural areas, where alcohol is not (legally) available . At the same time, because of the Island's small size, urban areas and accessibility to entertainment and alcohol are within manageable regular driving distance. It is likely that this leads to a greater amount of alcohol-related road mileage than would be the case for a population of similar size in a more urbanized area. This in turn increases the likelihood of impaired driving, because of the distances travelled that are associated with alcohol consumption. It also places a particular weight on urban-based police forces, whose resources are primarily determined according to the size of the resident population, but who are dealing with a majority of non-residents in terms of impaired driving charges.

Despite the substantial decrease in impaired driving charges in P.E.I., this province continues to have one of the higher rates among provinces across Canada. Some minor differences were noted between drivers charged with impaired driving in P.E.I. and elsewhere in Canada. P.E.I. drivers tended to be slightly younger than found among aggregate data for charges across Canada, a slightly higher proportion were male, and blood alcohol concentration was lower. Perhaps the major difference was the much higher proportion of drivers who were charged with 'refusal'. The decreasing proportion over the five years suggests a growing awareness that a conviction for 'refusal' is likely to carry a more severe penalty than a conviction for 'over 80 mg.'. However, it is notable that all Atlantic provinces have a substantially higher proportion of 'refusal' charges than the rest of Canada, without obvious explanation.

There were some minor differences in findings between the present study and that based on 1971-72 charges. Charged drivers in 1971-72 tended to be older, and with a higher BAC level, and a smaller proportion were female. Perhaps the most significant difference is the larger number of annual charges since that time. Some of this would be explained by population increase. Other explanations could include an increase in the level of police resources generally, and a proportionately higher targeting of resources towards impaired driving. As charges for impaired driving are estimated to reflect only a very small fraction of its actual incidence, and detected impairment is so contingent upon police enforcement practices, changes in the number of drivers charged annually over a long period of time may not accurately reflect changes in the level of actual occurrence. While the annual number of charges was considerably higher in the present study, the decreasing trend suggests that the annual level could return to the 1971-72 level within four years, if the trend continues at the same rate as the decrease in 1987, the last year of the present study.

IX. **FUTURE RESEARCH**

The present study involved a complete survey of all impaired driving charges over a five year period (excepting a small number of cases for which police files were not available), and this report has presented analysis and description of those factors which relate to the issues most frequently raised in relation to impaired driving. A complete data base has been developed, however, and further analyses of incidents included in the survey (e.g. changes in monthly charges by year, or time of incident in relation to day of week) are possible, to suit particular needs or answer particular questions. Appendix B lists the items of information available on each incident, and analysis of any combination of these items is possible.

Research on impaired driving in future years, to evaluate social and legislative changes, could be simplified enormously if a few items of information were routinely collected and entered into a centralized data base at the time of the incident, as is presently done in the case of accidents. This incident-based information could be linked with court information, which is presently in the developmental stages of automation.

APPENDIX A

Criminal Code Impaired Driving Offences

Prior to 4 December 1985

Impaired Driving
234. (1) Every one who, while his ability to drive a motor vehicle is impaired by alcohol or a drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of an ... offence (...).

Refusal to Provide Roadside Breath Sample
234.1 (1) Every one who, without reasonable excuse, fails or refuses to comply with a demand made to him by a peace officer under subsection (1) is guilty of an ... offence (...).

Refusal of Breathalyser
235. (2) Every one who, without reasonable excuse, fails or refuses to comply with a demand made to him by a peace officer under subsection (1) is guilty of an ... offence (...).

Driving with more than 80 mg.
236.(1) Every one who drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, having consumed alcohol in such a quantity that the proportion thereof in his blood exceeds 80 milligrams of alcohol in 100 millilitres of blood, is guilty of an ... offence (...) .

Punishment
Each of the above offences was either an indictable or summary conviction offence, and convicted persons were liable to the following penalty:
(a) for a first offence, to a fine of not more than two thousand dollars and not less than fifty dollars or to imprisonment for six months or to both;
(b) for a second offence, to imprisonment for not more than one year and not less than fourteen days; and
(c) for each subsequent offence, to imprisonment for not more than two years and not less than three months.

As of 4 December 1985

237. Every one commits an offence who operates a motor vehicle or vessel or operates or assists in the operation of an aaircraft or has the care or control of a motor vehicle, vessel or aircraft whether it is in motion of not,

Impaired Driving
(a) while his ability to operate the vehicle, vessel or aircraft is impaired by alcohol or a drug; or

Driving with over 80 mg.
(b) having consumed alcohol in such a quantity that the concentration thereof in his blood exceeds eighty milligrams of alcohol in one hundred millilitres of blood.

Refusal to Provide Breath or Blood Sample
238. (5) Every one commits an offence who, without reasonable excuse, fails or refuses to comply with a demand made to him by a peace officer under this section.

Punishment
239. (1) Every one who commits an offence under section 237 or 238 is guilty of an indictable offence or an offence punishable on summary conviction and is liable,
(a) whether the offence is prosecuted by indictment or punishable on summary conviction, to the following minimum punishment, namely,
(i) for a first offence, to a fine of not less than three hundred dollars,
(ii) for a second offence, to imprisonment for not less than fourteen days, and
(c)for each subsequent offence, to imprisonment for not less than ninety days;
(b) where the offence is prosecuted by indictment, to imprisonment for a term not exceeding five years; and
(c) where the offence is punishable on summary conviction, to imprisonment for a term not exceeding six months.

Impairment causing bodily harm
(2) Every one who commits an offence under paragraph 237(a) and thereby causes bodily harm to any other person is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years.

Impairment causing death
(3) Every one who commits an offence under paragraph 237(a) and thereby causes the death of any other person is guilty of an indictable offence and is liable to imprisonment for a term not exceeding fourteen years.

APPENDIX B

P.E.I. IMPAIRED DRIVING STUDY, 1983-1987

Information Collected from Police Incident Files

Police Jurisdiction - the municipal police force or RCMP detachment which laid the charge.
Incident Location - the place where the alleged impaired driving occurred, coded according to RCMP location codes.
Driver's Address - collected only for incidents in which the charge was laid by the Charlottetown or Summerside municipal police force, using the same codes as for Incident Location.
Driver's Birthdate - used to calculate driver's age on the date of the incident.
Driver's Gender
Driver's Licence No - collected only for P.E.I. licences, and used to link driver's involvement in separate incidents.
Driver's Licence Location - whether licensed in P.E.I. or out of province.
Driver's Licence Status - whether Valid, Suspended, Unlicensed, or Unlicensed and Prohibited
Date of Incident
Day of Week of Incident
Time of Incident
Blood Alcohol Level
Reason for Apprehension
Whether Injury to Driver
No. of Fatalities and Injuries to Passengers in Driver's Car
No. of Fatalities and Injuries to Others
Charge(s) Laid - (up to 3 charges) coded according to Criminal Code Section or other Statute.
Date of Conviction
Court Outcome - whether convicted, dismissed, absolute discharge, withdrawn, stayed, failed to appear, outstanding, noted separately for each charge.
Court Sentence - Sentence upon conviction - whether a fine, jail term, probation, restitution, alcohol treatment, etc. noted for each charge.
Fine - Amount of fine, for each charge.
Jail - Number of days, for each charge.
Extended Prohibition - number of months of court-ordered prohibition, collected if period was more than 6 months.

APPENDIX C

P.E.I. Licensed Drivers by Age Group, as of October 1987

Age	No. of Drivers	%
16	913	1.2
17	1,494	1.9
18	1,682	2.1
19	1,723	2.2
20-24	10,322	12.9
25-29	10,222	12.8
30-34	9,659	12.1
35-39	8,973	11.2
40-44	7,583	9.5
45-49	5,555	7.0
50-54	4,771	6.0
55-59	4,292	5.4
60-64	3,810	4.8
65 & over	8,909	11.1
TOTAL	79,908	100.0

GENDER OF P.E.I. LICENSED DRIVERS, AS OF NOVEMBER 1987[1]

Males	43,998	54.4
Females	36,850	45.6
TOTAL	80,848	100.0

---

[1] Not available by age group.

Information provided by the Highway Safety Division,
P.E.I. Department of Transportation and Public Works.

APPENDIX D

Fatalities, Injuries and Collisions, P.E.I. 1983 - 1987

	1983	1984	1985	1986	1987	Total
Persons Killed	31	31	37	29	18	146
Persons Injured	861	886	882	813	995	4,437
Fatal Collisions	29	26	34	20	17	126
All Collisions	2,884	3,169	3,506	3,296	3,644	16,499

Information provided by the Highway Safety Division, P.E.I. Department of Transportation and Public Works.

APPENDIX E

Impaired Driving Incidents Enforced by P.E.I. Police Jurisdictions 1983 - 1987

Jurisdiction	1983	1984	1985	1986	1987	TOTAL	%
Municipal							
Charlottetown	119	133	90	140	106	588	11
Summerside	138	126	124	114	89	591	11
St. Eleanors	30	30	27	16	8	111	2
Kensington	8	7	7	6	10	38	1
RCMP							
Charlottetown							
Municipal	2	28	31	5	1	67)	
Rural	268	280	248	234	231	1,261)	25
Parkdale	66	72	49	23	22	232	4
Sherwood	71	82	58	27	16	254	5
Montague							
Municipal)		69	38	25	55)		
Rural)	129[1]	65	44	51	60)	536	10
Summerside							
Municipal	-	1	-	-	-	1)	
Rural	93	84	106	62	45	390)	8
Lennox I.	13	16	12	14	4	59)	
Borden	34	42	51	45	31	203	4
Cavendish	50	36	25	21	14	146	3
Alberton	87	83	99	43	64	376	7
Souris							
Municipal	20	22	58	36	48	184)	
Rural	49	71	63	55	50	288)	9
Unknown	1	3	-	4	2	10	0
TOTAL	1,178	1,250	1,130	921	856	5,335	100

[1] Based on reported charges.

APPENDIX F

Charges Laid in Impaired Driving Incidents
P.E.I., 1983 - 1987

	No. of Charges Laid in Incident						
	1 Charge	2 Charges		3 Charges			Total
		1st	2nd	1st	2nd	3rd	
Driving while Impaired	185	44	292	5	12	7	545
Over 80 mg.	3,154	363	24	31	2	1	3,575
Refuse Breathalyser or ALERT	1,235	158	13	27	2		1,435
Criminal Negligence causing Death		1			1		2
Criminal Negligence		1	5		1	1	8
Dangerous Driving		2	29		11	2	44
Fail to Stop			25		7	3	35
Stolen Vehicle			15		6	2	23
Driving While Prohibited			12		1	6	19
Criminal Code Other			54		15	23	92
Highway Traffic Act			87		4	17	108
Narcotics Control Act			11		1		12
Liquor Control Act			2			1	3
TOTAL	4,574	569	569	63	63	63	5,901

APPENDIX G

Sentences for Impaired Driving Offences by Offence, P.E.I., 1983 - 1987[1]

	DRIVING WHILE IMPAIRED								OVER 80 MG.								REFUSAL							
	Fine		Jail		Fine & Jail		Other[2]		Fine		Jail		Fine & Jail		Other[2]		Fine		Jail		Fine & Jail		Other[2]	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No .	%	No.	%	No.	%
1983	23	96	1	4	-	-	-	-	629	97	10	1	7	1	1	0	299	96	11	3	2	1	-	-
1984	46	96	1	2	1	2	-	-	785	98	11	1	6	1	-	-	319	94	18	5	4	1	-	-
1985	20	69	3	10	6	21	-	-	604	83	26	4	85	12	12	2	222	79	24	9	35	12	-	-
1986	3	6	8	15	43	78	1	2	45	8	128	21	420	70	4	1	10	6	66	37	101	57	1	1
1987	4	10	13	31	24	57	1	2	30	6	152	28	351	65	9	2	9	6	63	40	83	53	1	1

---

1 Year of offence - not necessarily year of court judgment.

2 Includes sentences that did not include a fine or jail term, and which were ordered in Youth Court. Sentences which carried a probation order and any other conditions in addition to a fine or jail term are included with fine or jail sentences, as appropriate, including sentences imposed in Youth Court.

3 Differences between numbers here and in Tables 13 and 14 are accounted for by missing information and minor coding inconsistencies